

Banking, Commerce and Insurance Committee

**One Hundred Sixth Legislature
First Session – 2019**

SUMMARY OF 2019 LEGISLATION

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MEMORANDUM

TO: Members of the Legislature and
Other Interested Persons

FROM: Senator Matt Williams, Chairman
Banking, Commerce and Insurance Committee

DATE: September 15, 2019

RE: Summary of 2019 Session Legislation

I am pleased to present, for your reference, the following summary of the provisions and disposition of all 2019 bills referenced to and considered by the Banking, Commerce and Insurance Committee.

I hope you find this summary helpful as you review our work as of the conclusion of the 2019 session. If you have questions or need additional information, please contact me or my Legal Counsel, Bill Marienau.

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ACCOUNTANTS

LB49 (Stinner) Change provisions relating to accounting firm ownership

Enacted

Effective September 1, 2019

This bill amends section 1-162.01 of the Public Accountancy Act to provide additional categories of non-CPAs that may be owners of CPA firms. This section provides that such non-CPA owners, in addition to natural persons, shall be: an employee stock ownership plan under federal law; a partnership or limited liability company; or a corporation. This section provides that non-CPA owners shall not comprise a majority of the owners of a firm and shall not hold one half or more of the equity capital of the firm and possess majority voting rights of the firm. This section provides that such non-CPA owners, if a partnership, limited liability company, or corporation: shall hold a permit to engage in the practice of public accountancy otherwise required of a partnership, limited liability company, or corporation; do not have the ultimate responsibility for the firm's performance of audits, reviews, or compilations of financial statements or other forms of attestation; and shall have their owners who are natural persons otherwise comply with the existing requirements of this section as if they were direct owners in the firm. This section provides that such beneficial owners under an employee stock ownership plan shall be natural persons actively participating in the business of the firm or an entity controlled by the firm. This section provides that all of the trustees of employee stock ownership plans shall be natural persons who are certified public accountants. This section provides that individual non-CPA owners shall actively participate in the business of the firm if they are direct owners or shall actively participate in the business of the partnership, limited liability company, or corporation through which they have beneficial ownership of the firm.

The bill passed 47-0-2 on February 28, 2019 and was approved by the Governor on March 6, 2019.

AUTOMATIC TELLER MACHINES

LB603 (Lindstrom) Change automatic teller machine fees

Enacted

Effective September 1, 2019

Banking, Commerce and Insurance Committee Priority Bill

This bill amends section 8-157.01 of the Nebraska Banking Act which governs automatic teller machines and point-of-sale terminals.

Subdivision (3)(a) of section 8-157.01 provides (i) all automatic teller machines shall be made available on a nondiscriminating basis for use by Nebraska customers of a user financial institution and (ii) all Nebraska automatic teller machine transactions initiated by Nebraska customers of a user financial institution shall be made on nondiscriminating basis. Subdivision (3)(b) then identifies six situations that are not deemed discrimination. The bill amends two of them, as follows: The bill amends subdivision (3)(b)(iii) to provide that it shall not be deemed discrimination if the automatic teller machine usage fees of an establishing financial institution that authorizes and directly or indirectly routes Nebraska automatic teller machine transactions to multiple switches differ solely "based" upon the "fees established by the switches" rather differ upon the "fact that the automatic teller machine usage fee schedules of such switches differ from one another." The bill also repeals the provisions of subdivision (3)(b)(v) which provide that it shall not be deemed discrimination if "the manner in which an establishing financial institution authorizes and directly or indirectly routes Nebraska automatic teller machine transactions results in the same automatic teller machine usage fees for all user financial institutions for essentially the same service routed over the same switch." The bill repeals the provisions of subdivision (3)(d)(ii) which provide that a switch "shall implement the same automatic teller machine usage fee for all user financial institutions for essentially the same service."

Existing definitions are as follows:

An "automatic teller machine" is defined as a machine established and located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated and at which banking transactions may be conducted.

"Automatic teller machine usage fee" is defined as any per transaction fee established by a switch or otherwise established on behalf of an establishing financial and collected from the user financial institution and paid to the establishing financial institution for the use of the automatic teller machine. An automatic teller machine usage fee shall not include switch fees.

"Essentially the same service" is defined as the same Nebraska automatic teller machine transaction offered by an establishing financial institution irrespective of the user financial

institution, the Nebraska customer of which initiates the Nebraska automatic teller machine transaction.

"Establishing financial institution" is defined as any financial institution which has a main chartered office or approved branch located in the State of Nebraska that establishes or sponsors an automatic teller machine or any out-of-state financial institution that establishes or sponsors an automatic teller machine.

"Nebraska automatic teller machine transaction" is defined as a banking transaction which is (i) initiated at an automatic teller machine established in whole or in part or sponsored by an establishing financial institution, (ii) for an account of a Nebraska customer of a user financial institution, and (iii) processed through a switch regardless of whether it is routed directly or indirectly from an automatic teller machine.

"Switch" is defined as any facility where electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and are routed and transmitted to a financial institution or data processing center, wherever located. A switch may also be a data processing center.

"Switch fee" is defined as a fee established by a switch and assessed to a user financial institution or to an establishing financial institution other than an automatic teller machine usage fee.

"User financial institution" is defined as any financial institution which has a main chartered office or approved branch located in the State of Nebraska which avails itself of and provides its customers with automatic teller machine services.

The bill passed 49-0-0 on April 18, 2019 and was approved by the Governor on April 24, 2019.

BANKING AND FINANCE

LB145 (Hansen, M.) Change power of attorney provisions relating to banks and other financial institutions

Enacted

Effective September 1, 2019

This bill amends the Nebraska Uniform Power of Attorney Act to add to an agent's authority to execute powers of attorney required to do business with a financial institutions.

Section 1 amends section 30-4020 which provides in subdivision (1)(c) that no person may require an additional or different form of power of attorney for authority granted in the power of attorney presented. This section provides that section 30-4031, as amended by this bill, is an exception to the requirements of this subdivision.

Section 2 amends section 30-4031 to provide that language in a power of attorney granting authority with respect to banks and other financial institutions authorizes the agent to execute powers of attorney required and necessary for interacting with a financial institution so long as the terms and conditions in the financial institution's power of attorney are similar to those in the power of attorney granting authority, including the identification of the acting agent and the agent's successors. "Financial institution" includes a bank, trust company, saving and loan association, credit union, thrift company, or brokerage firm.

The bill passed 41-0-8 on March 15, 2019 and was approved by the Governor on March 21, 2019.

LB172 (Pansing Brooks) Change provisions relating to cofiduciaries, payable on death accounts, and competency for persons eighteen years of age or older entering into certain financial agreements

Provisions amended into LB55 and Enacted

Indefinitely Postponed on General File on a motion by the Speaker on May 31, 2019

This bill would provide and amend provisions relating to (1) the authority of copersonal representatives, cotrustees, coguardians, and coconservators; (2) the rights in sums on deposit in accounts with a POD (Payment on Death) designation, and (3) contractual rights of persons eighteen years of age or older.

Section 1 would enact a new section to provide that copersonal representatives, cotrustees, coguardians, or coconservators, unless restricted in a will, a trust, or an order of appointment, shall have the authority to act independently and shall not be required to act in concert with respect to banking transactions involving trust or estate assets.

Section 2 would amend section 30-2723 of the nonprobate transfer statutes which provide that in an account with a POD designation, on death of the sole party or last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries, and that if two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares. The bill would provide that if two or more beneficiaries survive, sums on deposit belong to them "in such proportions as specified in the POD designation or, if the POD designation does not specify different proportions," in equal and individual shares. This section would further provide that if there are two or more beneficiaries, and if any beneficiary fails to survive the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiaries in proportion to their respective interest as beneficiaries under the previously described provisions.

Section 3 would amend section 43-2101, the age of majority statute, which provides that persons under 19 years of age are minors, except that a person 18 years of age or older may enter into a binding contract or lease and shall be legally responsible therefor. The bill would provide, in addition, that a person 18 years of age or older may execute, sign, authorize, or otherwise authenticate (1) an effective financing statement, (2) a promissory note or other instrument evidencing an obligation to repay, or (3) a mortgage, trust deed, security agreement, financing statement, or other security instrument to grant a lien or security interest in real or personal property or fixtures, and shall be legally responsible therefor.

LB258e (Williams) Change provisions relating to banking and finance

Enacted

Effective March 8, 2019

This bill, introduced at the request of the Director of Banking and Finance, amends various sections relating to financial institutions.

The bill provides, section by section, as follows:

BANKS

Section 1 amends section 8-135 of the Nebraska Banking Act, which authorizes minors to establish deposit accounts, to update a reference within subsection (3) to the federal Electronic Fund Transfer Act as it existed on January 1, 2019 (instead of January 1, 2018).

Section 2 amends section 8-143.01 of the Nebraska Banking Act, which governs loans to bank insiders, to provide a cross-referencing date of January 1, 2019, within subsection (7)(b), to the statute's existing reference to 12 CFR 215.4(a)(2), and to update a reference within subsection

(10), to 12 USC 84 and its implementing federal Regulation O to such law and regulation as they existed on January 1, 2019 (instead of January 1, 2018).

Section 3 amends section 8-157.01 of the Nebraska Banking Act, which governs automated teller machines (ATMs) and electronic switches, to update a reference within subsection (4) to the federal Electronic Fund Transfer Act as it existed on January 1, 2019 (instead of January 1, 2018).

Section 4 amends section 8-167.01 of the Nebraska Banking Act, which provides an exception to the requirement for publication of bank reports contained in section 8-167, to update a reference to 12 CFR part 350 as the regulation existed on January 1, 2019 (instead of January 1, 2018).

Section 5 amends section 8-183.04 of the Nebraska Banking Act, which authorizes certain mutual savings associations to convert to a state bank charter and retain its mutual form of corporate organization, to change a reference from 12 CFR part 567 as such regulation existed on January 1, 2018 to 12 CFR 5.21 as such regulation existed on January 1, 2019, to reflect a revision at the federal level.

Section 6 amends section 8-1,140 of the Nebraska Banking Act, which is the "wild-card" statute for state-chartered banks. This section is amended to provide that state-chartered banks have the same rights, powers, privileges, benefits, and immunities as federally chartered banks doing business in Nebraska as of January 1, 2019 (instead of January 1, 2018). Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually.

TRUST COMPANIES

Section 7 amends section 8-209 of the Nebraska Trust Company Act, which requires entities doing trust business in Nebraska to pledge securities to the Director of Banking and Finance, to remove an obsolete reference within subsection (5) to the federal Office of Thrift Supervision.

Section 8 amends section 8-218 of the Nebraska Trust Company Act, which relates to regulatory examinations of trust companies, to update an obsolete reference to the federal Office of Thrift Supervision to its successor, the federal Office of the Comptroller of the Currency.

BUILDING AND LOAN ASSOCIATIONS

Section 9 amends section 8-318, relating to customer accounts in building and loan associations, to update a reference within subdivision (1)(c) to the federal Electronic Fund Transfer Act as of January 1, 2019 (instead of January 1, 2018).

Section 10 amends section 8-346, relating to regulatory examinations of building and loan associations, to remove an obsolete reference within subsection (1) to the federal Office of Thrift Supervision, and within subsection (2), to update an obsolete reference to the federal Office of Thrift Supervision to its successor, the Office of the Comptroller of the Currency.

Section 11 amends section 8-355, which is the "wild-card" statute for state-chartered savings associations. This section is amended to provide that state-chartered savings associations have the same rights, powers, privileges, benefits, and immunities as federally chartered savings

associations doing business in Nebraska as of January 1, 2019 (instead of January 1, 2018). Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually.

DEPARTMENT FEES

Section 12 amends section 8-602, which sets fees to be charged by the Director of Banking and Finance for matters relating to financial institutions, to remove, within subdivision (4), an obsolete fee for renewal of bank executive officer and credit union loan officer licenses.

CREDIT UNIONS

Section 13 amends section 21-17,115 of the Nebraska Credit Union Act, which is the "wild-card" statute for state-chartered credit unions. This section is amended to provide that state-chartered credit unions have the same rights, powers, privileges, benefits, and immunities as federally chartered credit unions doing business in Nebraska as of January 1, 2019 (instead of January 1, 2018). Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually.

PRIVACY OF INFORMATION

Section 14 amends section 44-915 of the Privacy of Insurance Consumer Information Act, relating to the disclosure of nonpublic personal financial information, as follows: within subdivision (4) to remove an obsolete reference to the federal Office of Thrift Supervision; to include the federal Consumer Financial Protection Bureau as an agency with whom information may be shared; and to update references to 12 USC 3401 et. seq., 31 USC Chapter 53, Subchapter II, and 12 USC Chapter 21, as such federal laws existed on January 1, 2019 (instead of April 5, 2001); and within subdivision (5) to update a reference to 15 USC 1681 et seq., as such sections existed on January 1, 2019 (instead of April 5, 2001).

MORTGAGE LOANS

Section 15 amends section 45-702(10) of the Residential Mortgage Licensing Act, which defines the term "federal banking agencies", to remove an obsolete reference to the federal Office of Thrift Supervision, to correctly state the name of the federal Office of the Comptroller of the Currency, and to include the federal Consumer Financial Protection Bureau within the definition.

CLOSING AGENTS

Section 16 amends section 76-2,121(4), which defines the term "regulating entity" for purposes of statutes relating to real estate closing agents, to remove an obsolete reference to the federal Office of Thrift Supervision, and to include the federal Office of the Comptroller of the Currency and the Consumer Financial Protection Bureau within the definition.

REAL ESTATE LICENSEES

Section 17 amends section 81-855.01(19), which defines the term "federal financial institution regulatory agency" for purposes of the Nebraska Real Estate License Act, to remove an obsolete reference to the federal Office of Thrift Supervision, and to include the federal Consumer Financial Protection Bureau within the definition.

UNIFORM COMMERCIAL CODE – FUNDS TRANSFERS

Section 18 amends Section 4A-108 of the Uniform Commercial Code to update references within subsections (a) and (b) to the federal Electronic Fund Transfer Act as it existed on January 1, 2019 (instead of January 1, 2013).

MISCELLANEOUS PROVISIONS

Section 19 provides for repeal of the amendatory sections.

Section 20 provides for the emergency clause.

The bill passed 43-0-6 with emergency clause on March 1, 2019 and was approved by the Governor on March 7, 2019

LB355 (La Grone) Change provisions relating to money transmitters, installment sales, and mortgage loans

Enacted

Sections 2 to 6, and 12 operative January 1, 2020 and sections 1,7 to 11, and 13 operative on September 1, 2019

This bill, introduced at the request of the Director of Banking and Finance, amends various sections of the Nebraska Money Transmitters Act, the Nebraska Installment Sales Act, and the Residential Mortgage Licensing Act.

The bill provides, section by section, as follows:

MONEY TRANSMITTERS

Section 1 amends section 8-2737 of the Nebraska Money Transmitters Act, relating to regulatory examinations, to provide:

That the director may conduct offsite or onsite examinations of money transmitter licensees and any of their authorized delegates;

That the director may conduct examinations in conjunction with federal departments or agencies; and

A cross-reference to sections 8-605 and 8-606 for examination charges.

INSTALLMENT SALES

Section 2 amends section 45-335 of the Nebraska Installment Sales Act, which is the definitional section of the act, to define the term "branch office" in new subdivision (23).

Section 3 amends section 45-340 of the Nebraska Installment Sales Act, which relates to installment contracts entered into by mail without personal solicitation, to change the term "salesmen" to "salespersons".

Section 4 amends section 45-346 of the Nebraska Installment Sales Act, which specifies the licensing requirements under the act, to provide that as of January 1, 2020:

A person with one office in Nebraska may obtain branch office licenses for other locations, rather than obtaining a full license for each physical location;

An applicant for a license must provide specified information;

An applicant for a license may simultaneously request to license branch office(s); and

A branch office license fee of \$100 is established for such offices.

Section 5 amends section 45-346.01 of the Nebraska Installment Sales Act, which sets licensee requirements for office moves, net worth, and surety bonds, to provide that notifications to the director are to be made through the Nationwide Mortgage Licensing System and Registry; to require prior notifications for establishing, moving, or closing branch offices and for changing names; and to establish a branch license fee of \$100 for such additional offices.

Section 6 amends section 45-348 of the Nebraska Installment Sales Act, which sets the standards for renewal of an installment sales license, to establish a renewal fee of \$100 for branch office licenses, and to change the method of cancellation of a surrendered license.

MORTGAGE LOANS

Section 7 amends section 45-705 of the Residential Mortgage Licensing Act, which specifies the licensing requirements for mortgage bankers (firms) under the act, to provide for mandatory submission of fingerprints for specified principals of an applicant, and to authorize the use of the Nationwide Mortgage Licensing System and Registry as a channeling agent for fingerprint requests.

Section 8 amends section 45-727 of the Residential Mortgage Licensing Act, which requires the licensing of mortgage loan originators (individuals) under the act, to adopt a transitional licensing process required by federal law becoming effective November 24, 2019, to allow federally-registered mortgage loan originators and mortgage loan originators licensed by another state who meet specified standards to act as a mortgage loan originator for up to 120 days in Nebraska after becoming employed by a Nebraska-licensed mortgage banker.

Section 9 amends section 45-734 of the Residential Mortgage Licensing Act, relating to inactive mortgage loan originator licenses, to provide, within new subdivision (5), that a person holding an inactive mortgage loan originator license is limited to one renewal of the inactive license, absent a showing of good cause to the director.

Section 10 amends section 45-737 of the Residential Mortgage Licensing Act, which sets forth the duties of mortgage bankers, to change, within subdivision (8), the time period for maintaining certain mortgage loan records from three years to five years.

MISCELLANEOUS PROVISIONS

Section 11 provides an operative date of January 1, 2020 for sections 2, 3, 4, 5, 6, and 12 of the bill and an operative date of September 1, 2019 for sections 1, 7 to 11, 13 of the bill.

Sections 12 and 13 provide for repeal of the amendatory sections.

The bill passed 45-0-4 on March 1, 2019 and was approved by the Governor on March 7, 2019.

LB407 (Lindstrom) Grant in-state credit unions powers of out-of-state credit unions as prescribed

Pending in Committee

This bill would amend sections 21-1701 and 21-1725.01 of the Credit Union Act and enact a new section in the act.

The bill would enact a new section to provide that a state-chartered credit union may, with the approval of the Director of Banking and Finance, engage in any “activity” that a credit union chartered by another state operating one or more branches in this state may be authorized to engage in, if the director finds that the exercise of the power and authority serves the convenience and advantage of the members of the state-chartered credit union, and maintains the fairness of competition and parity between state-chartered credit unions and credit unions chartered by another state which operate one or more branches in this state. The director would be required to approve or disapprove such “activity” not later than thirty days after a substantially complete application is filed with the Department of Banking and Finance.

The bill would provide that “activity” includes establishing a branch of a credit union.

The bill would repeal existing requirements for hearings and publication of notice relating to applications to establish credit union branches.

LB453 (Clements) Provide for hearings on credit union membership expansion applications

Pending in Committee

This bill would amend section 21-1725.01 of the Credit Union Act to provide that when application is made to amend the articles of association or bylaws of a state-chartered credit union for the purpose of expanding the credit union's field of membership, the Director of Banking and Finance shall hold a hearing on the matter if he or she determines that the condition of the applicant credit union warrants a hearing. If the director determines that the condition of the credit union does not warrant a hearing, the director shall publish notice of the application in a newspaper of general circulation in the county or counties in which the expanded field of membership has been requested and shall give notice of the application by certified mail to the Nebraska Bankers Association and the Nebraska Independent Community Bankers Association. If the director receives any substantive objection to the application, he or she shall hold a hearing on the application. Notice of the hearing shall be published in a newspaper of general circulation in the county or counties in which the expanded field of membership has been requested and notice of the hearing shall be provided by certified mail to the Nebraska Bankers Association and the Nebraska Independent Community Bankers Association.

LB622 (Williams) Change provisions and provide for pooled collateral under the Public Funds Deposit Security Act

**Enacted
Operative July 1, 2020**

This bill amends various sections of the Public Funds Deposit Security Act to, in principal part, authorize the use of a single bank pooled method to collateralize deposits of public money or public funds in excess of amounts insured or guaranteed by the Federal Deposit Insurance Corporation.

Under the single bank pooled method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds of one or more governmental units by providing a deposit guaranty bond or through a pool of eligible securities established by such bank, capital stock financial institution, or qualifying mutual financial institution with a qualified trustee, or any combination thereof, to be held subject to the order of the Director of Banking and Finance or the administrator for the benefit of the governmental units having public money or public funds with such bank, capital stock financial institution, or qualifying mutual financial institution. The bill further provides that the director shall designate a bank, savings association, trust company, or other qualified firm, corporation, or association to serve as the administrator with respect to a single bank pooled method. The single bank pooled method may not be utilized unless an administrator has been designated and is acting as the administrator.

The bill passed 45-0-4 on March 7, 2019 and was approved by the Governor on March 12, 2019.

CONDOMINIUMS

LB42 (Hilkemann) Provide certain responsibilities and a duty under the Condominium Property Act and a duty under the Nebraska Condominium Act

Enacted

Effective September 1, 2019

This bill amends provisions of the Condominium Property Act (originally enacted in 1963), sections 76-801 to 76-823, and the Nebraska Condominium Act (originally enacted in 1983), sections 76-825 to 76-894, regarding duties of co-owners and unit owners. The 1963 act governs condominiums created under a master deed before 1984, and the 1983 act governs condominiums created under a declaration on or after January 1, 1984.

Section 1 amends section 76-808 of the Condominium Property Act (1963 act) to provide that the association of co-owners and board of administrators is responsible for maintenance, repair, and replacement of the common elements, and that each co-owner of an apartment is responsible for maintenance, repair, and replacement of such co-owners' apartment.

Section 2 amends section 76-816 of the Condominium Property Act (1963 act) to provide that the association of co-owners and board of administrators shall file annually with the register of deeds the names and addresses of the officers of such board. The receipt of legal notice by or service of process on such officer shall constitute notice to the board. If the board fails to make the required filing, the posting of the legal notice or process at the entrance, main office, or other permanent location in the common area of the condominium shall constitute notice to the board.

The 1963 act provides that an "association of co-owners" is defined as all of the co-owners, and that "board of administrators" is defined as the governing body of the regime, consisting of not less than three members selected by and from the co-owners.

Section 3 amends section 76-861 of the Nebraska Condominium Act (the 1983 act) to provide that the unit owners association shall file annually with the register of deeds the names and addresses of the officers of the association. The receipt of legal notice by or service of process on such officer shall constitute notice to the association. If the association fails to make the required filing, the posting of the legal notice or process at the entrance, main office, or other prominent location in the common area of the condominium shall constitute notice to the association.

The Nebraska Condominium Act (1983 act) already contains provisions in subsection (a) of section 76-865 similar to those which are added to section 76-808 of the Condominium Property Act (1963 act) by section 1 of the bill.

The bill passed 40-4-5 on March 1, 2019 and was approved by the Governor on March 7, 2019.

CONSUMER PROTECTION

LB259e (Lindstrom) Change consumer protection provisions under the Securities Act of Nebraska, the Commodity Code, and the Consumer Rental Purchase Agreement Act

Enacted

Effective March 8, 2019

This bill, introduced at the request of the Director of Banking and Finance, amends various sections of the Securities Act of Nebraska, the Commodity Code, and the Consumer Rental Purchase Agreement Act.

The bill provides, section by section, as follows:

Section 1 amends section 8-1101, which is the definitional section of the Securities Act of Nebraska. The amendments:

Correct a discrepancy between the definition of a “federal covered adviser” in subdivision (4) and an exclusion to the definition of an “investment adviser” in subdivision (7)(h). The effect of the amendment will be that persons who are excluded from the federal definition of investment adviser will not be included in the state's definition of a federal covered adviser.

Update subdivision (14) to provide that references to named federal securities acts are to those acts as they existed on January 1, 2019 (instead of January 1, 2017).

Section 2 amends section 8-1101.01 of the Securities Act of Nebraska to update references to federal rules and regulations adopted under the Investment Advisors Act of 1940 and the Securities Act of 1933 as those rules and regulations existed on January 1, 2019 (instead of January 1, 2017), and to remove an obsolete reference to federal Rules 147 and Rule 147A adopted under the Securities Act of 1933.

Section 3 amends section 8-1103, which is the principal registration statute in the Securities Act of Nebraska for firms and individuals providing securities-related services and products, to update a reference within subdivision (9)(c)(i) to the fair practice and ethical standards adopted by the Securities and Exchange Commission or the Financial Industry Regulatory Authority in effect on January 1, 2019 (instead of January 1, 2017).

Section 4 amends section 8-1108.02 of the Securities Act of Nebraska to:

Update a federal reference contained in subdivision (2)(b) and subsection (6) as a result of a revision at the federal level. The current reference is to Section 18(b)(4)(E) of the Securities Act of 1933; Congress changed this to section 18(b)(4)(F); and

Provide an exclusion from broker-dealer and agent registration for the offer or sale of federal covered securities which are exempt from federal registration pursuant to Tier 2 of federal Regulation A, 17 CFR 230.251.

Section 5 amends section 8-1111, which provides for transactional exemptions from registration (securities, broker-dealer, agent) under the Securities Act of Nebraska, to update a reference within subdivision (5) to the Interstate Land Sales Full Disclosure Act as that Act existed on January 1, 2019 (instead of January 1, 2017).

Section 6 amends section 8-1704 of the Commodity Code, which defines the term "CFTC rule," to update a reference to rules, regulations, or orders of the Commodity Futures Trading Commission in effect on January 1, 2019 (instead of January 1, 2011).

Section 7 amends section 8-1707 of the Commodity Code, which defines the term "Commodity Exchange Act," to update a reference to the federal Commodity Exchange Act in effect on January 1, 2019 (instead of January 1, 2011).

Section 8 amends section 8-1726 of the Commodity Code, which provides investigation and enforcement authority to the Nebraska Department of Banking and Finance for violations of the Commodity Code, to update subdivision (3)(a) by providing that fines collected are to be credited by the State Treasurer in accordance with Article VII, section 5, of the Nebraska Constitution.

Section 9 amends section 69-2103 of the Consumer Rental Purchase Agreement Act, which, in subdivision (4), defines the term "consumer rental purchase agreement," to update references to federal definitions contained in 12 CFR 1026.2(a)(16), 15 USC 1602(h), and 12 CFR 1013.2, as such regulations and statute existed on January 1, 2019 (instead of January 1, 2016).

Section 10 amends section 69-2104 of the Consumer Rental Purchase Agreement Act, which requires disclosures to consumers, to update a reference within subsection (4) to the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2019 (instead of January 1, 2016).

Section 11 amends section 69-2112 of the Consumer Rental Purchase Agreement Act, which relates to certain advertisements for consumer rental purchase agreements, to update references within subsection (2) to the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2019 (instead of January 1, 2016), and within subsection (3) to the disclosure requirements of the federal Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, 2019 (instead of January 1, 2016).

Section 12 amends section 69-2117 of the Consumer Rental Purchase Agreement Act, which provides enforcement authority to the Nebraska Department of Banking and Finance for violations of the act, to update subsection (4) by providing that fines collected are to be credited by the State Treasurer in accordance with Article VII, section 5, of the Nebraska Constitution.

Section 13 provides for repeal of the amendatory sections.

Section 14 provides for the emergency clause.

The bill passed 45-0-4 with the emergency clause on March 1, 2019 and was approved by the Governor on March 7, 2019.

DELAYED DEPOSIT SERVICES

LB265 (La Grone) Adopt the Unsecured Consumer Loan Licensing Act and clarify licensing provisions under the Delayed Deposit Services Licensing Act and the Nebraska Installment Loan Act

Pending in Committee

This bill would enact 33 new sections to be known as the Unsecured Consumer Loan Licensing Act to provide for the Nebraska Department of Banking and Finance to regulate a new type of licensee—unsecured consumer loan businesses. Such a business would be defined as any person who offers a loan: (a) with a principal loan amount no greater than \$1,000 with loan payments that shall not exceed nine percent gross monthly income; (b) in which the lender holds the borrower’s check or checks for a specific period, or receives the borrower’s written authorization to debit the borrower’s account for a specific period, before the lender (i) offers the check or checks for deposit or presentment or (ii) exercises the authorization or authorizations to debit the borrower’s account; (c) that does not take a security interest in any property of the borrower; and (d) which is payable according to the agreement between the licensee and consumer.

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Unsecured Consumer Loan Licensing Act.

Section 2 would enact a new section to provide for definitions: (1) “annual percentage rate;” (2) “check;” (3) “default;” (4) “department;” (5) “director;” (6) “financial institution;” (7) “licensee;” (8) “Nationwide Mortgage Licensing System and Registry;” (9) “person;” and (10) “unsecured consumer loan business.”

Section 3 would enact a new section to provide that the act shall not apply to a financial institution organized under the laws of this state or the laws of the United States.

Section 4 would enact a new section to provide that no person shall operate an unsecured consumer loan business in this state unless licensed by the Director of Banking and Finance. This section also would provide that it shall not prevent a licensee under the act from acquiring a license under the Delayed Deposit Services Licensing Act or the Nebraska Installment Loan Act.

Section 5 would enact a new section to provide for submission of an application for a license under the act.

Section 6 would enact a new section to provide that licensees are required to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. This section would provide that the Department of Banking and Finance is authorized to participate in the registry.

Section 7 would enact a new section to provide that an application for a license shall be accompanied by an application fee of \$500 and a surety bond in the amount of \$50,000. This section would provide that the Director of Banking and Finance may require the filing of a new or supplemental surety bond up to an amount of \$100,000.

Section 8 would enact a new section to provide for a public hearing on an application for a license.

Section 9 would enact a new section to provide for determinations to be made by the Director of Banking in issuance of a license.

Section 10 would enact a new section to provide that failure of the Director of Banking and Finance to act on a complete application for a license within ninety days shall constitute approval of the application.

Section 11 would enact a new section to provide for annual renewal of licenses with a renewal fee of \$500 for the main office and \$500 for each branch office.

Section 12 would enact a new section to provide for surrender of a license.

Section 13 would enact a new section to provide that a licensee shall notify the Director of Banking and Finance after the occurrence of any material development in its condition.

Section 14 would enact a new section to provide that a license shall not be transferable or assignable.

Section 15 would enact a new section to provide that the prior written approval of the Director of Banking and Finance shall be required whenever a change in control of a licensee is proposed.

Section 16 would enact a new section to provide that a licensee may change the location of its office or offices with the prior written approval of the Director of Banking and Finance. This section would also provide that a licensee may conduct an online unsecured consumer loan business so long as it designates at least one principal place of business in this state.

Section 17 would enact a new section to provide that a licensee shall keep and make available its books and records relating to its unsecured consumer loan transactions.

Section 18 would enact a new section to provide that a licensee may operate an unsecured consumer loan business at a location where any other business is operated or in association or conjunction with any other business if the books, accounts, and records of the licensee are kept and maintained separate and apart from the books, accounts, and records of the other business,

and the other business is not of a type which would tend to conceal evasion of the requirements of the act.

Section 19 would enact a new section to provide that a licensee shall, at the time any unsecured consumer loan is made, give the borrower a written notice disclosing: (a) the name of the borrower, transaction date, and transaction amount; (b) the scheduled installment payment due dates and total payments due; (c) the total fees on the transaction, expressed as both a dollar amount and an annual percentage rate; (d) the date on which the check or checks or electronic debits will be deposited or presented for negotiation; and (e) any penalty not to exceed \$15 which the licensee will charge if a check is not negotiable on the date agreed upon or the authorization to debit the borrower's account is dishonored.

Section 20 would enact a new section to provide that no licensee shall charge a fee in excess of 20 percent of the first \$300 plus 7.5 percent on any amount in excess of \$300. This section also would provide that a licensee may charge a monthly maintenance fee on each unsecured consumer loan, not to exceed \$11.25 per \$100 loaned.

Section 21 would enact a new section to provide that no licensee shall: (a) require the borrower to receive payment by a method which causes the borrower to pay additional fees and charges to the licensee or other person; (b) accept the proceeds of an unsecured consumer loan transaction as repayment, refinancing, or other consolidation of an unsecured consumer loan transaction held by the same licensee; (c) renew, roll over, defer, or extend an unsecured consumer loan by allowing the borrower to pay less than the total amount of the unsecured consumer loan transaction and any authorized fees or charges; or (d) enter into another unsecured consumer loan transaction with the same borrower on the same business day as the completion of a transaction unless prior to entering into the transaction the borrower and the licensee verify on a form prescribed by the Department of Banking and Finance that completion of the prior transaction has occurred. This section would also provide that no licensee shall make an unsecured consumer loan for a term of less than 180 days.

Section 22 would enact a new section to provide for annual examination of licensees.

Section 23 would enact a new section to provide that the Director of Banking and Finance may investigate complaints about or reports of alleged violations of the act and may order payment of an administrative fine of not more than \$1,000 and payment of the costs of investigation.

Section 24 would enact a new section to provide for revocation, suspension, cancellation, or expiration of a license.

Section 25 would enact a new section to provide the Director of Banking and Finance with cease and desist order authority.

Section 26 would enact a new section to provide the Director of Banking and Finance with authority to initiate an enforcement action in the District Court of Lancaster County.

Section 27 would enact a new section to provide that if the Director of Banking and Finance finds that any person has violated the act or any rule, regulation, or order issued thereunder, the director may order such person to pay an administrative fine of not more than \$5,000 for each separate violation and the costs of investigation.

Section 28 would enact a new section to provide that operation of an unsecured consumer loan business without a license is a Class IV felony.

Section 29 would enact a new section to provide for disposition of fees, charges, costs, and fines. This section also would provide that the State Treasurer shall credit \$150 of each main office renewal fee to the Financial Institution Assessment Cash Fund and \$350 of each main office renewal fee to the Financial Literacy Cash Fund and shall credit \$100 of each branch office renewal fee to the Financial Institution Assessment Cash Fund and shall credit \$400 of each branch office renewal fee to the Financial Literacy Cash Fund.

Section 30 would enact a new section to provide that obtaining a license shall constitute sufficient contact with the state for exercise of personal jurisdiction.

Section 31 would enact a new section to provide the Director of Banking and Finance with rule and regulation authority.

Section 32 would enact a new section to provide that the Financial Literacy Cash Fund is created and is to be administered by the University of Nebraska to provide assistance to nonprofit entities that offer financial literacy programs to students in grades kindergarten through twelve.

Section 33 would enact a new section to provide that nothing in the act shall prevent a licensee from acquiring a license under the Delayed Deposit Services Licensing Act or the Nebraska Installment Loan Act or both.

Section 34 would insert and amend section 45-901 of the Delayed Deposit Services Licensing Act to provide that section 35 of this bill shall be assigned within it.

Section 35 would enact a new section to provide that nothing in the Delayed Deposit Services Licensing Act shall prevent a licensee under it from acquiring a license under the Unsecured Consumer Loan Licensing Act.

Section 36 would insert and amend section 45-1001 of the Nebraska Installment Loan Act to provide that section 37 of this bill shall be assigned within it.

Section 37 would enact a new section to provide that nothing in the Nebraska Installment Loan Act shall prevent a licensee under it from acquiring a license under the Unsecured Consumer Loan Licensing Act.

Section 38 would provide for repeal of the amendatory sections.

LB379 (Kolterman) Change provisions under the Delayed Deposit Services Licensing Act and the Nebraska Installment Loan Act

Pending on General File Speaker Priority Bill

This bill would amend the Delayed Deposit Services Licensing Act and the Nebraska Installment Loan Act to provide new provisions regarding the licensing and authority of delayed deposit services licensees.

THE BILL AS INTRODUCED

DELAYED DEPOSIT SERVICES

Section 1 would amend section 45-901 of the Delayed Deposit Services Licensing Act to provide for assignment of new sections 3 and 4 within the act.

Section 2 would amend section 45-902 of the Delayed Deposit Services Licensing Act to provide for a new definition: "Nationwide Mortgage Licensing System and Registry" --a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage bankers, installment loan companies, and other state-regulated financial services entities and industries.

Section 3 would enact a new section in the Delayed Deposit Services Licensing Act to provide that nothing in the act shall prevent a licensee from acquiring a license under the Nebraska Installment Loan Act.

Section 4 would enact a new section in the Delayed Deposit Services Licensing Act to provide that licensees are required to be licensed and registered through the Nationwide Mortgage Licensing System and Registry and that the Department of Banking and Finance is authorized to participate in the registry to carry out this requirement. This section would provide that the department may establish requirements, including background checks of an applicant's or a licensee's criminal history record information. This section would also authorize the department to contract with the registry to collect and maintain records and process fees related to licensees.

Section 5 would amend section 45-915 of the Delayed Deposit Services Licensing Act to provide that a licensee may offer delayed deposit services business online, so long as the licensee designates at least one principal place of business within this state. This section would repeal provisions that currently provide that a licensee may operate a branch only in the same county in which the licensee's designated place of business is located. No specific provisions relating to branches would remain.

INSTALLMENT LOANS

Section 6 would amend section 45-1001 of the Nebraska Installment Loan Act to provide for assignment of new section 7 within the act.

Section 7 would enact a new section in the Nebraska Installment Loan Act to provide that nothing in the act shall prevent an installment loan licensee from acquiring a license under the Delayed Deposit Services Licensing Act.

MISCELLANEOUS

Section 8 would provide for repeal of the amendatory sections.

COMMITTEE AMENDMENTS

The committee amendments would become the bill and would make the following changes in the bill:

DELAYED DEPOSIT SERVICES

Section 1 to amend section 45-901 of the Delayed Deposit Services Licensing Act. The committee amendments would harmonize internal references to other sections of the committee amendments.

Section 2 to amend section 45-902 of the Delayed Deposit Services Licensing Act. The committee amendments would update an internal reference to a federal statute.

Section 3 to amend section 45-905 of the Delayed Deposit Services Licensing Act (not included in the bill as introduced). The committee amendments would amend provisions relating to license applications to provide an internal reference to new section 6 of the committee amendments.

Section 4 to amend section 45-906 of the Delayed Deposit Services Licensing Act (not included in the bill as introduced). The committee amendments would amend provisions relating to license application processing fees to provide an internal reference to new section 6 of the committee amendments.

Section 5 (section 3 of the bill as introduced). The committee amendments would make no changes.

Section 6 (section 4 of the bill as introduced). The committee amendments would amend provisions relating to background checks of applicants and licensees through submission of fingerprints of a principal officer, director, partner, member, or sole proprietor to the Federal Bureau of Investigation or other authorized governmental agency or entity.

Section 7 to amend section 45-910 of the Delayed Deposit Services Licensing Act (not included in the bill as introduced). The committee amendments would amend provisions relating to expiration and renewal of licenses.

Section 8 to amend section 45-912 of the Delayed Deposit Services Licensing Act (not included in the bill as introduced). The committee amendments would provide that when a licensee is required to notify the Director of Banking and Finance of a change in its business, the notification shall be through the Nationwide Mortgage Licensing System and Registry.

Section 9 to amend section 45-915 of the Delayed Deposit Services Licensing Act (section 5 of the bill as introduced). The committee amendments would insert provisions relating to license application processing fees. The committee amendments would further provide that a licensee may operate branch offices at any location in this state with the prior written approval of the Director of Banking and Finance. Section 45-915 currently provides that a licensee may operate branch offices only in the same county in which the licensee's designated principal place of business is located.

INSTALLMENT LOANS

Section 10 to amend section 45-1001 of the Nebraska Installment Loan Act (section 6 of the bill as introduced). The committee amendments would harmonize an internal reference to another section of the committee amendments.

Section 11 (section 7 of the bill as introduced). The committee amendments would make no changes.

MISCELLANEOUS

Section 12 (section 8 of the bill as introduced). The committee amendments would update references to sections that would be repealed by the bill.

FINANCE AUTHORITY

LB224 (Albrecht) Rename the Nebraska Educational, Health, and Social Services Finance Authority Act and provide for applicability

Enacted

Effective September 1, 2019

This bill amends provisions throughout the Nebraska Educational, Health, and Social Services Finance Authority Act, sections 58-801 to 58-866, to change its name to the Nebraska Educational, Health, "Cultural," and Social Services Finance Authority Act, and expand its scope beyond private institutions of higher education, private health care institutions, and private social services institutions to include "private cultural institutions." The type of projects which may be financed under the act is expanded to include property located within the state that may be used or will be useful in connection with the provision of cultural services to members of the general public.

The bill renames the Nebraska Educational, Health, and Social Services Finance Authority the Nebraska Educational, Health, "Cultural," and Social Services Finance Authority. The purpose of the Authority is to assist eligible institutions with acquisition, construction, improvement, and renovation projects; to acquire equipment; and to administer loan programs. The Authority finances projects by issuing public, income tax-exempt bonds and loaning the proceeds to the eligible institutions for the projects. These bonds are not a debt of the state or any of its political subdivisions.

The bill defines a "private cultural institution" is a federal tax-exempt private not-for-profit corporation or institution that has a primary purpose of promoting cultural education or development, such as a museum or related visual arts center, performing arts facility, or facility housing, incubating, developing, or promoting art, music, theater, dance, zoology, botany, natural history, cultural history, or the sciences.

The bill passed 41-0-8 on March 15, 2019 and was approved by the Governor on March 21, 2019.

FRAUDULENT TRANSFERS

LB70 (Hansen, M.) Adopt the Uniform Voidable Transactions Act and eliminate the Uniform Fraudulent Transfer Act

Enacted

Effective September 1, 2019

This bill enacts 15 new sections to be known as the Uniform Voidable Transactions Act and outright repeals and replaces Nebraska's Uniform Fraudulent Transfer Act, sections 36-701 to 36-712. The bill thereby adopts the set of amendments approved in 2014 by the National Conference of Commissioners on Uniform State Laws in the official text of its Uniform Fraudulent Transfer Act of 1984. Nebraska enacted its version of the Uniform Fraudulent Transfer Act in 1989. The Uniform Fraudulent Transfer Act creates a right of action for any creditor against any debtor and any other person who has received property from the debtor in a fraudulent transfer. A fraudulent transfer occurs when a debtor intends to hinder, delay, or defraud a creditor, or transfers property under certain conditions to another person without receiving reasonably equivalent value in return. Substantial portions of the text of the Uniform Fraudulent Transfer Act carry over to the Uniform Voidable Transactions Act as it is renamed.

The uniform law commissioners' set of 2014 amendments was intended to address a small number of narrowly defined issues, and is not a comprehensive revision:

Deletion of the Special Definition of "Insolvency" for Partnerships. Section 2(c) of the act as originally written set forth a special definition of "insolvency" applicable to partnerships. The 2014 amendments delete original section 2(c), with the result that the general definition of "insolvency" in section 2(a) [section (3)(a) of the bill] now applies to partnerships.

Evidentiary Matters. New sections 4(c), 5(c), 8(g), and 8(h) [sections 5(c), 6(c), 9(g), and 9(h) of the bill] add uniform rules allocating the burden of proof and defining the standard of proof with respect to claims for relief and defenses under the act.

Defenses. The 2014 amendments refine in relatively minor respects several provisions relating to defenses available to a transferee or an obligee, as follows:

(1) As originally written, section 8(a) created a complete defense to an action under section 4(a)(1) (which renders voidable a transfer made or obligation incurred with actual intent to hinder, delay, or defraud any creditor of the debtor) if the transferee or obligee takes in good faith and for a reasonably equivalent value. The 2014 amendments add to section 8(a) [section 9(a) of the bill] the further requirement that the reasonably equivalent value must be given the debtor.

(2) Section 8(b) [section 9(b) of the bill], derived from Bankruptcy Code Sections 550(a), (b) (1984), creates a defense for a subsequent transferee (that is, a transferee other than the first transferee) that takes in good faith and for value, and for any subsequent good-faith transferee

from such person. The 2014 amendments clarify the meaning of section 8(b) [section 9(b) of the bill] by rewording it to follow more closely the wording of Bankruptcy Code sections 550(a), (b). Among other things, the amendments make clear that the defense applies to recovery of or from the transferred property or its proceeds, by levy or otherwise, as well as an action for a money judgment.

(3) Section 8(e)(2) as originally written created a defense to an action under section 4(a)(2) or 5 to avoid a transfer if the transfer results from enforcement of a security interest in compliance with Article 9 of the Uniform Commercial Code. The 2014 amendments exclude from that defense acceptance of collateral in full or partial satisfaction of the obligation it secures (a remedy sometimes referred to as "strict foreclosure").

Choice of Law. The 2014 amendments add a new section 10 [section 11 of the bill], which sets forth a choice of law rule applicable to claims for relief of the nature governed by the act.

Series Organizations. A new section 11 [section 12 of the bill] provides that each "protected series" of a "series organization" is to be treated as a person for purposes of the act, even if it is not treated as a person for other purposes. This change responds to the emergence of the "series organization" as a significant form of business organization.

Medium Neutrality. In order to accommodate modern technology, the references in the act to a "writing" have been replaced with "record," and related changes made.

Style. The 2014 amendments make a number of stylistic changes that are not intended to change the meaning of the act. For example, the amended act consistently uses the word "voidable" to denote a transfer or obligation for which the act provides a remedy. As originally written the act sometimes inconsistently used the word "fraudulent."

The bill passed 45-0-4 on March 1, 2019 and was approved by the Governor on March 7, 2019.

HEALTH INSURANCE

LB15 (Blood) Adopt the Children of Nebraska Hearing Aid Act

Enacted

Effective September 1, 2019

Speaker Priority Bill

This bill enacts five new sections to require individual and group health benefit plans which provide dependent coverage to include coverage for hearing aids and associated services for covered children under the age of nineteen beginning January 1, 2020.

The bill applies to group or individual sickness and accident insurance policies, health maintenance organization contracts, subscriber contracts, employee medical, surgical, or hospital care benefit plans, or self-funded employee benefit plans to the extent not preempted by federal law. The bill also applies to policies, contracts, or plans offered or administered by the state or its political subdivisions. The bill does not apply to small employer group plans or policies providing limited-benefit coverage.

The bill provides that covered items and services shall be covered on a continual basis to the extent that benefits paid for such items and services during the immediately preceding forty-eight-month period have not exceeded three thousand dollars.

The bill provides that a health insurance plan shall be exempt from its provisions for a plan year if the cost of coverage would exceed one percent of all premiums collected under such plan for such plan year.

The bill passed 48-0-1 on May 23, 2019 and was approved by the Governor on May 29, 2019.

LB228 (Hughes) Prohibit certain insurance practices relating to a person's status as a living organ donor

Pending in Committee

This bill would make it unlawful to: decline or limit coverage for life, disability or long-term care insurance; preclude a person from donating all or part of an organ as a condition of receiving life, disability or long-term care insurance; and consider the status of a person as a

living organ donor in determining rates for coverage and otherwise discriminate against a person under any life, disability, or long-term care insurance policy due to the status of such person as a living organ donor.

Violation of this act shall be an unfair trade practice in the business of insurance, subject to the Unfair Insurance Trade Practices Act.

LB316e (Kolterman) Provide protections for pharmacies to disclose information regarding drug prices and prohibit insurers from charging covered individuals in excess of certain amounts

Enacted

Effective April 25, 2019

Banking, Commerce and Insurance Committee Priority Bill

This bill enacts a new section regarding pharmacy benefits managers. It provides protections for pharmacies to disclose information regarding drug prices and it prohibits insurers from charging covered individuals in excess of certain amounts.

A “pharmacy benefit manager” is defined as a person or an entity that performs pharmacy benefits management services for a covered entity. “Pharmacy benefits management” is defined as the administration or management of prescription drug benefits provided by a covered entity under a contract between the pharmacy benefit manager and the covered entity. A “covered entity” is defined as (a) a nonprofit hospital or medical services corporation, an insurer, a third-party payor, a managed care company, or a health maintenance organization, (b) a health program administered by the state in the capacity of provider of health insurance coverage, or (c) an employer, a labor union, or any other group that provides health insurance coverage

First, the bill provides that a contracted pharmacy shall not be prohibited from or subject to penalties or removal from a network or plan for sharing information regarding the cost, price, or copayment of a prescription drug with a covered individual. The bill further provides that a pharmacy benefit manager shall not prohibit or inhibit a contracted pharmacy from discussing any such information or selling a more affordable alternative to a covered individual.

Second, the bill provides that an insurer shall not require a covered individual to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of: (a) the individual's copayment, deductible, or coinsurance for such prescription drug; or (b) the amount any individual would pay for such prescription drug if the individual paid in cash.

The bill passed 49-0-0 with the emergency clause on April 18, 2019 and was approved by the Governor on April 24, 2019.

LB442 (McCollister) Require insurance coverage for synchronizing prescription medications

Enacted

Effective September 1, 2019

This bill enacts a new section to provide that individual or group sickness and accident insurance policies, certificates, or subscriber contracts, and self-funded employee benefit plans to extent not preempted by federal law that provide coverage for prescription medications shall apply a prorated daily cost-sharing rate to prescriptions that are dispensed by a network pharmacy for a partial supply if the prescribing practitioner or pharmacist determines the fill or refill to be in the best interest of the patient and the patient requests or agrees to a partial supply for the purpose of synchronizing the patient's medications.

The bill defines "synchronizing the patient's medications" as the coordination of medications for a patient who has been prescribed two or more medications for one or more chronic conditions so that the patient's medications are refilled on the same schedule for a given time period.

The bill provides that a policy, certificate, contract, or plan provider shall not use payment structures incorporating prorated dispensing fees, and that dispensing fees for partially filled or refilled prescriptions shall be paid in full for each prescription dispensed, regardless of any prorated daily cost-sharing for the beneficiary or fee paid for alignment services.

The bill passed 46-0-3 on March 7, 2019 and was approved by the Governor on March 12, 2019.

LB501 (Hunt) Require insurance coverage for in vitro fertilization procedures

Pending in Committee

This bill would enact a new section to provide that (1) individual or group sickness and accident insurance policies, certificates, or subscriber contracts, (2) hospital, medical, or surgical expense-incurred policies, (3) and self-funded employee benefit plans to the extent not preempted by federal law that provide coverage for pregnancy-related procedures, shall provide coverage on an expense incurred, service, or prepaid basis for outpatient expenses that arise from in vitro fertilization procedures.

The bill would provide that the required benefits must be provided to the same extent as benefits provided for other pregnancy-related procedures under the policy, certificate, contract, or plan.

The bill would provide that this coverage shall be required only if: (a) the patient is covered under the policy, certificate, contract, or plan; (b) the patient has been unable to attain a pregnancy through less costly treatments; and (c) the procedures are performed at a medical

facility that conforms to the minimal standards for programs of in vitro fertilization adopted by the American Society for Reproductive Medicine.

The bill would provide the Department of Insurance with rule and regulation authority.

LB569 (Morfeld) Adopt the Out-of-Network Consumer Protection, Transparency, and Accountability Act

Pending in Committee

This bill would enact nineteen new sections to be known as the Out-of-Network Consumer Protection, Transparency, and Accountability Act. The bill, in principal part, would establish statutory requirements regarding receipt of (1) inadvertent out-of-network services or (2) services at an in-network or out-of-network health care facility on an emergency or urgent basis.

The bill would provide requirements for disclosures to be made to a covered person by a health care facility (section 14) or a health care provider (section 16) prior to scheduling an appointment for a nonemergency procedure. The bill would provide for what information a health care facility shall post as disclosures on its web site (section 15).

The bill would provide that if a covered person receives medically necessary services at any health care facility on an emergency or urgent basis, the facility shall not bill the covered person in excess of any deductible, copayment, or coinsurance amount applicable to in-network services pursuant to the covered person's health benefits plan (section 17).

The bill would provide that if a covered person receives inadvertent out-of-network services or medically necessary services at an in-network or out-of-network health care facility on an emergency or urgent basis, the health care provider shall: (1) in the case of inadvertent out-of-network services, not bill the covered person in excess of any deductible, copayment, or coinsurance amount; and in the case of emergency and urgent services, not bill the covered person in excess of any deductible, copayment, or coinsurance amount applicable to in-network services pursuant to the covered person's health benefit plan (section 18).

The bill would provide that if a covered person receives inadvertent out-of-network services or receives services at an in-network or out-of-network health care facility on an emergency or urgent basis, the carrier shall ensure that the covered person incurs no greater out-of-pocket costs than the covered person would have incurred with an in-network health care provider for covered services. With respect to inadvertent out-of-network services or services at an in-network or out-of-network health care facility on an emergency or urgent basis, benefits provided by a carrier that the covered person receives for health care services shall be assigned to the out-of-network health care provider, which shall require no action on the part of the covered person. Once the benefit is assigned, any reimbursement paid by the carrier shall be paid directly to the out-of-network health care provider. If inadvertent out-of-network services or services provided at an

in-network or out-of-network health care facility on an emergency or urgent basis are performed, the out-of-network health care provider may bill the carrier for the services rendered. The final reimbursement amount would be subject to negotiation. (Section 19).

The bill would provide for definitions: (1) "carrier;" (2) "covered person;" (3) "health benefits plan;" (4) "health care facility;" (5) "health care professional;" (6) "health care provider;" (7) "inadvertent out-of-network services;" (8) "knowingly, voluntarily, and specifically selected an out-of-network health care provider;" (9) "medical assistance program;" (10) "medically necessary;" and (11) "TRICARE" (sections 3 to 13).

LB619 (Kolowski) Prohibit denial of coverage for mental health services delivered in a school

Enacted

Effective September 1, 2019

Senator Priority Bill (Kolowski)

This bill enacts a new section to provide that an insurer offering any individual or group health insurance policy subject to state law shall not deny coverage or payment for a mental health service solely because the service is delivered in a school.

The bill defines a "school" as a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Chapter 79.

The bill provides that nothing in it shall require an insurer offering a health insurance policy to pay for mental health services that are otherwise excluded from the policy or that are provided by an individual employed by or under contract with a school district or an educational service unit.

The bill provides that nothing in it shall prevent application of any other provision of the policy.

The bill provides that it applies to health insurance policies issued or renewed on or after January 1, 2020, and to claims for reimbursement based on such policies for costs incurred on or after January 1, 2020.

The bill passed 49-0-0 on April 11, 2019 and was approved by the Governor on April 17, 2019.

INSTALLMENT LOANS

LB188 (Lindstrom) Change the rate of interest charged on loans under the Nebraska Installment Loan Act

Pending on Select File

This bill would amend section 45-1024 of the Nebraska Installment Loan Act to provide that licensees may receive charges on loans not exceeding 29 percent per annum instead of 24 percent per annum on that part of the unpaid principal balance not in excess of \$1,000, and 21 percent per annum on any remainder of the unpaid principal balance.

INSURANCE

LB116 (Kolterman) Authorize electronic delivery of insurance policies and billing information to insureds

Enacted

Effective September 1, 2019

This bill enacts two new sections to authorize electronic mailing, delivery, or posting by insurers of notices or documents.

Section 1 provides that (1) any notice to a party or (2) any document required in an insurance transaction or that serves as evidence of coverage may be delivered, stored, and presented by electronic means. "Party" is defined as a recipient of a notice or document required as part of a first-party insurance transaction, such as an applicant, an insured, or a policyholder. Delivery of a notice or document in accordance with this section is equivalent to any delivery method required by law, including delivery by first-class mail, registered mail, certified mail, certificate of mailing, or a commercial mail delivery service. The electronic delivery method used must provide for verification or acknowledgment of receipt in instances in which proof of receipt is required for a mailing. A notice or document may be delivered by electronic means by an insurer to a party if the party has affirmatively consented to such method of delivery and has not withdrawn the consent. This section provides that a producer shall not be subject to civil liability for any harm or injury that occurs as a result of a party's election to receive any notice or document by electronic means or by the insurer's failure to deliver a notice or document by electronic means. This section provides that it only applies to life insurance policies, annuity contracts, and property and casualty insurance policies.

Section 2 provides that life insurance policies, annuity contracts, and property and casualty insurance policies and endorsements that do not contain personally identifiable financial information may be mailed, delivered, or posted on the insurer's web site. This section provides that a policy and endorsements must be accessible to the insured and the producer. Expired policies and endorsements must be archived and available for five years. Policies and endorsements must be printable. A paper policy and endorsements must be mailed without charge by the insurer to the insured upon request.

The bill passed 41-0-8 on March 15, 2019 and was approved by the Governor on March 21, 2019.

LB159e (Williams) Change provisions of the Nebraska Life and Health Insurance Guaranty Association Act

Enacted

Effective March 13, 2019

This bill, introduced at the request of the Director of Insurance, adopts the latest National Association of Insurance Commissioners' (NAIC) model updates to the Nebraska Life and Health Insurance Guaranty Association Act. The changes represent a nationwide compromise between life insurers and health insurers on long-term care insurance insolvencies, add health maintenance organizations to the act, and is an NAIC accreditation standard for the Nebraska Department of Insurance.

The bill provides, section by section, as follows:

Section 1 amends section 44-2702, the definition section of the act. This section provides definitions for new terms utilized in the act including "extra-contractual claims," "benefit plan," "health benefit plan," and "plan sponsor." Additionally, a number of existing definitions are also amended, most notably "member insurer" to include health maintenance organizations.

Section 2 amends section 44-2703 to clarify what coverages the act applies to and what coverages are excluded from the act. This section adds healthcare providers into the list of beneficiaries, assignees, or payees. This section also includes a statement that long-term care riders are covered, even if provisions of the underlying policy related to interest rates or crediting rates are not covered by the act. The amendments to this section also make it clear that the act does not apply to Medicaid or plans associated with Medicaid. Because of the changes in this section related to benefit plan and health benefit plan, the health insurance subsection of 44-2703 is amended to remove now unneeded language and a new subsection related to long-term care riders on life insurance policies is included to state that such a rider will be considered the same type of benefits as the base policy for the purposes of the act.

Section 3 amends section 44-2706 to increase the possible number of members of the board of directors of the Nebraska Life and Health Insurance Guaranty Association.

Section 4 amends section 44-2707, which provides powers and duties to the Nebraska Life and Health Insurance Guaranty Association. The amendments insert provisions related to actuarial justification in situations when the association reissues policies or sets premiums, provides authority to the association to provide the liquidator a report of premiums collected, permits the association to settle claims against it, and amends the associations powers and duties related to reinsurance. The section is also amended to make numerous changes for harmonization.

Section 5 amends section 44-2708 to change the manner of assessments related to the insolvency of a long-term care insurer. Previously, the long-term care assessments were solely health related. This section is amended to state that fifty percent of the assessment shall be allocated to health insurers and fifty percent to life insurers. The amendments to this section also provide additional authority to the board of the association when the maximum possible assessments will

be insufficient to cover the anticipated claims. These powers include amending the plan of operation to allow for allocating funds from other claims and the assessment of other accounts. This section is also amended to allow an insurer to use a certificate of contribution in its financial statement as an asset.

Section 6 amends section 44-2709 related to the association's plan of operation. The amendments add a deemer clause providing the plan of operation will be deemed approved if the Director of Insurance fails to disapprove the plan of operation within thirty days. The section is also amended to allow the plan of operation to include procedures for removal of a member of the board of directors and to require a policy of conflict of interests.

Section 7 amends section 44-2713 to clarify that it is an unfair trade practice in the business of insurance, subject to the Unfair Insurance Trade Practices Act, for a person to make use of the protection of the act in the sale of insurance.

Section 8 amends section 44-2718 to increase the stay placed on all proceedings against an impaired insurer from sixty days to one hundred eighty days and clarifies that this stay is not intended to inhibit the powers of a receiver appointed pursuant to the Nebraska Insurers, Supervision, Rehabilitation, and Liquidation Act.

Section 9 amends section 44-2719.01 to add coverage provided by a health maintenance organization.

Section 10 amends section 44-2719.02 to harmonize terminology.

Section 11 provides for the emergency clause.

Section 12 provides for the repeal of the amendatory sections.

The bill passed 47-0-2 with the emergency clause on March 7, 2019 and was approved by the Governor on March 12, 2019.

LB380 (La Grone) Change provisions of the Nebraska Property and Liability Insurance Guaranty Association Act

Enacted

Effective September 1, 2019

This bill, introduced at the request of the Director of Insurance, amends the Nebraska Property and Liability Insurance Guaranty Association Act to make minor changes to bring the Nebraska act closer to the National Association of Insurance Commissioners model in this area.

The bill provides, section by section, as follows:

Section 1 amends section 44-2401 to update internal references.

Section 2 amends section 44-2403, which is the definitional section of the act. The definition of covered claim is amended to eliminate unnecessary language related to timely filing a claim with the liquidator, eliminates exclusionary language related to policy deductible, and adds a statement that covered claim shall not include punitive or exemplary damages, amounts for incurred but not reported, and any claim filed after the earlier date of twenty five months after order of liquidation or a final date set by the liquidator.

Section 3 amends section 44-2406 to change the floor of a covered claim, including a covered claim for unearned premium, from \$100 to \$0.

Section 4 amends section 44-2407 to change the powers and duties of the association. First the bill changes the year assessments are based upon. Prior to this change, all assessments for an insolvency were based on insurers' premium levels for the year proceeding the declaration of the insolvency. This section is amended to base all assessments for an insolvency on the insurers' premium levels for the year proceeding the assessment.

Additionally, language is added to section 44-2407 to provide that the association will be deemed the insolvent company to the extent of the association's responsibilities for covered claims as if the company had not become insolvent, including the rights of salvage and subrogation. Language is also clarified to provide the association access to an insolvent company's records.

Section 44-2407 is also amended to provide the association the ability to intervene in any court that has jurisdiction over the insolvent insurer, to bring actions against any representative of the insolvent insurer if needed, and removes unnecessary language related to member contribution return.

Section 5 amends 44-2409 to remove the word “agency” and replace it with “facility”.

Section 6 amends section 44-2410 to update internal references and terminology.

Section 7 amends 44-2411 to make stylistic changes.

Section 8 amends section 44-2415 to update internal references.

Section 9 amends section 44-2418 to provide for assignment of new section 9 within the Nebraska Property and Liability Guaranty Association Act.

Section 10 enacts a new section that will stay, for one hundred twenty days, all proceedings arising out of a claim under a policy of insurance written by an insolvent insurer from the date of entry of liquidation. This section includes language indicating that it is not intended to interfere with the powers of a receiver appointed pursuant to the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act.

Section 11 provides for repeal of the amendatory sections.

The bill passed 47-0-2 on March 7, 2019 and was approved by the Governor on March 12, 2019.

LB469 (Lindstrom) Change provisions of the Surplus Lines Insurance Act and the Property and Casualty Insurance Rate and Form Act and eliminate provisions relating to employee benefit plans

Enacted

Effected September 1, 2019

This bill, introduced at the request of the Director of Insurance, amends the Surplus Lines Insurance Act to add provisions to allow for domestic surplus lines insurers in Nebraska, eliminates obsolete provisions, and makes necessary statutory amendments to allow the elimination of unneeded rules and regulations of the Department of Insurance.

The bill provides, section by section, as follows:

SURPLUS LINES INSURANCE

Section 1 amends section 44-5501 of the Surplus Lines Insurance Act to assign new section 3 within the act.

Section 2 amends section 44-5502 of the Surplus Lines Insurance Act to add the new definition of "domestic surplus lines insurer" to the act.

Section 3 enacts a new section in the Surplus Lines Insurance Act to authorize the Director of Insurance the authority to grant a certificate of authority to an insurer to operate as a domestic surplus lines insurer if the insurer: (1) possesses a policyholder surplus of at least \$15,000,000; (2) is an eligible surplus lines insurer in at least one other state; and (3) is acting pursuant to a resolution passed by its board of directors. Additionally, this section provides that a domestic surplus lines insurer will be subject to all financial and solvency laws of Chapter 44 unless specifically exempted, and specifically exempts domestic surplus lines insurers from the protection of the guaranty funds.

Section 4 amends 44-5507 of the Surplus Lines Insurance Act to change the word "transacting" to "accepting" to harmonize language in the act.

Section 5 amends section 44-5508 of the Surplus Lines Insurance Act to allow a surplus lines licensee to place business with a domestic surplus lines insurer and to change the word "transact" to "accept" in two places to harmonize language in the act.

PROPERTY AND CASUALTY INSURANCE RATES AND FORMS

Section 6 amends section 44-7508.02 of the Property and Casualty Insurance Rate and Form Act to change references to rules and regulations that will be eliminated.

Section 7 amends section 44-7513 of the Property and Casualty Insurance Rate and Form Act to change references to rules and regulations that will be eliminated.

Section 8 amends section 44-7514 of the Property and Casualty Insurance Rate and Form Act to eliminate a duty of the Director of Insurance to issue rules and regulations for qualifying multistate commercial policyholders. This section adds language from the rule and regulation related to qualifying multistate commercial policyholder qualifications.

MISCELLANEOUS PROVISIONS

Section 9 provides for repeal of the amendatory sections.

Section 10 provides for the outright repeal of sections 44-213.01, 44-213.02, 44-213.03, 44-213.04, 44-213.05, 44-213.06, 44-213.07 (obsolete provisions regarding the process of Director of Insurance approval or disapproval of employee benefit plans.), and 44-7512 (obsolete provisions regarding rules and regulations to disapprove subjective aspects of rating systems in effect prior to January 1, 2001).

The bill passed 46-0-3 on March 7, 2019 and was approved by the Governor on March 12, 2019.

INTERGOVERNMENTAL RISK MANAGEMENT

LB573 (Hansen, M.) Change provisions relating to agreements under the Intergovernmental Risk Management Act

Indefinitely Postponed in Committee

This bill would amend section 44-4306 of the Intergovernmental Risk Management Act to provide for additional provisions that shall be in the financial plan and the plan of management of an agreement entered into for the purpose of establishing and operating a risk pool.

Currently, a financial plan shall set forth the amount of cash reserves to be set aside for the payment of claims. The bill would provide that, with the permission of the Director of Insurance, such amount may be expressed as a dollar amount or as a fraction of risks pooled. The bill would provide that the amount of cash reserves shall be calculated based on the different types of insurance coverage offered, amounts covered, claims experience, economic stability, and underwriting risks involved.

The bill would require that a financial plan shall set forth the "minimum amount" rather than the "amount" of aggregate excess insurance coverage and specific excess insurance coverage to be purchased in a given fiscal period, and shall set forth the "minimum amount of specific excess insurance coverage to be purchased for each type of insurance coverage offered by the pool in a given fiscal period."

The bill would provide that the board of directors of a pool shall be chosen by an election voted in by the member public agencies and that the election is not subject to the Election Act. The bill would provide that a plan of management shall set forth (1) the manner and method of electing the members of the board of directors, (2) proof that such manner and method has been filed with the Secretary of State, and (3) a provision that the election protocol shall be approved by the Secretary of State prior to the commencement of operations of the pool.

The bill would provide that a plan of management shall set forth (1) a provision requiring that no member of the board of directors may serve for a term longer than XXX consecutive years or for more than XXX terms or XXX partial years each, whichever is longer; (2) a provision requiring that members of the board of directors be elected in staggered elections which assure that no fewer than one third, and no more than one half, of the members are elected in any one year; and (3) a provision requiring that elections of members of the board of directors shall be conducted on terms and in a manner approved by the Secretary of State.

The bill would provide that a plan of management shall set forth (1) provisions requiring that all claims shall be "adjusted" rather than "paid" promptly, "that for all claims a determination of coverage and liability shall be made promptly, and that all claims shall be settled and resolved promptly or defended on their merits if it is determined that they are of doubtful merit or validity, (2) a provision requiring that no part of the "income" as well as the net earnings or assets of the

pool shall inure to the benefit of any "organization of any kind" as well as any private person, and (3) a provision requiring that no part of the assets, income, or net earnings of the pool shall be used for commercial sponsorships, branding, co-branding, or promotions except to the extent that such efforts are made by parties expressly contracted to do so."

The bill would provide that a plan of management shall set forth any other standards, procedures, or practices necessary or desirable for the continued operation of the pool "as directed by the board of directors or required by the Director of Insurance, except that the Director of Insurance shall not impose requirements that are greater than those imposed upon a commercial insurance company licensed to transact business in Nebraska."

LEGAL SERVICE INSURANCE

LB26 (Kolterman) Change provisions related to legal services insurance corporations

Enacted

Effective September 1, 2019

This bill amends sections 44-3302 and 44-3303 of the statutes which govern legal expense insurance, sections 44-3301 to 44-3327, to provide that the insurance laws of this state do not apply to plans that do not include the assumption of risk or obligation to pay or reimburse for specified legal services or specified legal expenses, and that the payment of only an administrative fee to an attorney shall not be considered payment or reimbursement for specified legal services or a specified legal expense.

The bill passed 45-0-4 on May 31, 2019 and was approved by the Governor on June 4, 2019.

LIMITED LIABILITY COMPANIES

LB78 (Williams) Change provisions of the Nebraska Uniform Protected Series Act and the Nebraska Uniform Limited Liability Company Act

Enacted

Sections 2 to 20 and 23 and 24 operative on January 1, 2021 and sections 1, 21, 22, and 24 operative on September 1, 2019

OVERVIEW

This bill amends the Nebraska Uniform Protected Series Act (NUPSA), sections 21-501 to 21-542, and the Nebraska Uniform Limited Liability Act (NULLCA), sections 21-101 to 21-197, to coordinate the provisions of the two acts. The NUPSA was enacted in 2018 based on the Uniform Protected Series Act (UPSA), which was promulgated by the National Conference of Commissioners on State Laws in 2017. The UPSA provides a comprehensive framework for the formation and operation of a protected series limited liability company. A protected series limited liability company has both "horizontal" liability shields, as well as the standard "vertical" liability shield. Business entities provide the traditional, vertical shield--protecting the entity's owners (and their respective assets) from automatic, vicarious liability for the entity's debts. A series limited liability company provides horizontal shields--protecting each protected series (and its assets) from automatic, vicarious liability for the debts of the company and for the debts of any other protected series of the company. A horizontal shield likewise protects the series limited liability company (and its assets) from creditors of any protected series of the company.

The 2018 legislation to enact the NUPSA provided for the NUPSA to be codified within the NULLCA, that is, it is a named act within a named act. The uniform law commissioners provided for the UPSA to be codified within the 2013 version of its Uniform Limited Liability Act. Nebraska's limited liability company act, however, is based on the 2006, rather than the 2013, version of the uniform act. LB78 harmonizes the provisions of the NUPSA with the NULLCA in order to make it properly functioning.

SUMMARY

AMENDMENTS TO THE NEBRASKA UNIFORM LIMITED LIABILITY COMPANY ACT

Section 1 amends section 21-147 to provide for a limited liability company to be able to rescind its filing of a statement of dissolution.

Section 2 amends section 21-192 to specify the fees paid to the Secretary of State for filing a protected-series designation, for filing an application for a certificate of authority by a foreign protected series, for filing a statement of designation change, and for filing biennial reports.

AMENDMENTS TO THE NEBRASKA UNIFORM PROTECTED SERIES ACT

Section 3 amends section 21-507 to correct an internal reference and repeal provisions related to an outright-repealed section.

Section 4 amends section 21-509 to provide for the filing of a protected-series designation for more than one protected series.

Section 5 amends section 21-510 to provide that the name of a protected series must be distinguishable in the records of the Secretary of State from the name of other entities incorporated, organized, or authorized to transact business in this state. This is the Nebraska standard for name filings.

Section 6 amends section 21-513 to harmonize terminology. Appropriate usage is certificate of "existence" rather than of certificate of "good standing" and certificate of "authority" rather than certificate of "registration."

Section 7 amends section 21-514 to harmonize terminology. Appropriate usage is certificate of "existence" rather than certificate of "good standing."

Section 8 amends section 21-517 to correct usage of a defined term.

Section 9 amends section 21-520 to correct usage of a defined term.

Section 10 amends section 21-521 to harmonize terminology. Appropriate usage is "authorized" rather than "registered."

Section 11 amends section 21-522 to correct an internal reference.

Section 12 amends section 21-523 to harmonize terminology. Appropriate usage is "authorized" rather than "registered."

Section 13 amends section 21-525 to provide that when a protected series of a protected series limited liability company dissolves, the company "shall" rather than "may" file a statement of protected-series dissolution with the Secretary of State.

Section 14 amends section 21-526 to correct an internal reference.

Section 15 amends section 21-528 to harmonize terminology. Appropriate usage is "organization" rather than "entity."

Section 16 amends section 21-529 to harmonize terminology. Appropriate usage is "organization" rather than "entity."

Section 17 amends section 21-532 to harmonize terminology. Appropriate usage is "articles" of merger rather than "statement" of merger.

Section 18 amends section 21-534 to insert a missing word.

Section 19 amends section 21-537 to provide for what an application by a foreign protected series of a foreign series limited liability company for a certificate of authority to do business in this state must include if the jurisdiction of formation of the foreign series limited liability company does not provide for issuance of a certificate of existence or equivalent for a foreign protected series. This section harmonizes filing requirements related to the name of a foreign protected series. This section harmonizes requirements for a foreign protected series of a foreign series limited liability company to amend its application for a certificate of authority if there is a change in information related to the foreign protected-series manager of and agent for service of process for each other foreign protected series of the foreign series limited liability company. This section also harmonizes terminology. Appropriate usage is "authorization" and "certificate of authority" rather than "registration."

Section 20 amends section 21-539 to clarify a reference to the uniform act as promulgated by the uniform law commissioners.

MISCELLANEOUS PROVISIONS

Section 21 provides that sections 2 to 20, 23, and 24 become operative on January 1, 2021. That is the operative of the original 2018 enactment of the Nebraska Uniform Protected Series Act.

Sections 22 and 23 provide for repeal of the amendatory sections.

Section 24 provides for outright repeal of section 21-541 which is based on a section in the UPSA that provides transitional provisions for a state that enacts its version of the UPSA, but already has some manner of protected series provisions in its statutes. This section is unnecessary for Nebraska and can be repealed as surplusage.

The bill passed 45-0-4 on March 1, 2019 and was approved by the Governor on March 7, 2019.

PROPERTY AND CASUALTY INSURANCE

LB257 (Kolterman) Change provisions relating to loss payouts by insurers

Pending in Committee

This bill would enact a new section relating to responsibilities with regard to parties named on insurance loss payout checks.

This section would provide that in cases in which there is not a total loss, when there are one or more loss payees shown on the policy, an insurer paying a claim in excess of \$2,500 under an automobile comprehensive or collision physical damage coverage shall add as a payee on the check, in addition to the name of the insured or insureds, the name of the business repairing the automobile or the name of the loss payee or loss payees. (Subsection 1.) This section would also provide that in cases in which there is not a total loss, when there are one or more loss payees shown in the policy, an insurer paying a claim in excess of \$7,500 under a property damage policy for a loss to a one-to-four family dwelling unit or an owner-operated commercial property shall add as a payee on the check, in addition to the name of the insured or insureds, the name of the business repairing the unit or the property or the name of the loss payee or loss payees. (Subsection 2.) After an insurer has issued a check in accordance with these requirements, such check, if satisfactory in amount to the insured, shall be endorsed by the insured in favor of the loss payee or business repairing the automobile, dwelling unit, or commercial property, as applicable, and delivered to such loss payee or business. (Subsection 4.) For any check issued in accordance with these requirements by an insurer which is made payable to the insured and a loss payee, the loss payee shall either (a) send the check, endorsed, to the insured or (b) process the check for collection or deposit. Any loss payee holding funds under (b) above shall hold such funds for payment of the cost of repairs unless the evidence of the debt or the instrument given as security for the debt is in default. If the default is a result of failure to make payments in a timely manner as required by the evidence of debt or the instrument securing the debt, the loss payee may apply an amount of such proceeds sufficient to cure the default and hold the balance for payment of the cost of repairs. (Subsection 5.)

This section would provide that in cases of a total loss, when there are one or more loss payees shown in the policy, the insurer paying a claim under automobile comprehensive or collision physical damage coverage or a property damage policy for a loss to a one-to-four family dwelling unit or owner-operated commercial property, shall add as a payee on the check, in addition to the name of the insured or insureds, the name of the loss payee or loss payees. (Subsection 3.)

LB274 (Hansen, M.) Change provisions relating to stacking of coverage under the Uninsured and Underinsured Motorist Insurance Coverage Act

Pending in Committee

This bill would amend sections 44-6410 and 44-6411 of the Uninsured and Underinsured Motorist Insurance Coverage Act to provide that the limits of liability for uninsured or underinsured motorist coverage for two or more motor vehicles insured under separate policies held by different policyholders who are not related persons residing in the same household may be stacked to determine the limit of coverage available to an injured person for any one accident.

LB370 (McCollister) Change motor vehicle liability insurance and financial responsibility requirements

Pending in Committee

This bill would increase the current required minimum limits of motor vehicle insurance coverage and financial responsibility requirements (1) for bodily injury to or death of other persons and (2) for damage to property of others.

The bill would provide, section by section, as follows:

UNINSURED AND UNDERINSURED COVERAGE

Section 1 would amend section 44-6408 of the Uninsured and Underinsured Motorist Insurance Coverage Act to increase the minimum limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident and (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident. (There are no statutory requirements for uninsured and underinsured coverage of injury to or destruction of property.)

LIABILITY COVERAGE

Sections 2 to 6 would amend the following sections to increase the minimum liability limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident, (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident, and (3) from \$25,000 to \$50,000 for injury to or destruction of property of other persons in one accident:

Section 60-310 of the Motor Vehicle Registration Act (definition of “automobile liability policy” for purposes of motor vehicle registration requirements) (section 2 of the bill);

Section 60-346 of the Motor Vehicle Registration Act (definition of “proof of financial responsibility” for purposes of motor vehicle registration requirements) (section 3 of the bill);

Section 60-501 of the Motor Vehicle Safety Responsibility Act (definition of “proof of financial responsibility”) (Section 4 of the bill);

Section 60-509 of the Motor Vehicle Safety Responsibility Act (requirements for an automobile liability policy or bond) (section 5 of the bill); and

Section 60-534 of the Motor Vehicle Safety Responsibility Act (requirements for a certified SR22 motor vehicle liability policy) (section 6 of the bill).

Section 7 would amend section 60-549 of the Motor Vehicle Safety Responsibility Act to increase the minimum amount of cash or securities deposited with the State Treasurer necessary to evidence proof of financial responsibility from \$75,000 to \$150,000 – historically this amount has been the sum of the minimum limit for bodily injury to or death of two or more persons plus the minimum limit for injury to or destruction of property of other persons. This section would express this amount by means of an internal reference to subdivisions (13)(b) and (c) of section 60-501.

MISCELLANEOUS PROVISIONS

Section 8 would provide for an operative date of January 1, 2020.

Section 9 would provide for repeal of the amendatory sections.

Minimum limits requirements were first enacted in 1949 and have been increased three times thereafter, as follows:

1949	LB493	\$5,000 / \$10,000 / \$1,000
1959	LB628	\$10,000 / \$20,000 / \$5,000
1976	LB365	\$15,000 / \$30,000 / \$10,000
1983	LB253	\$25,000 / \$50,000 / \$25,000 (current)

LB672 (Clements) Change provisions of the Motor Vehicle Registration Act relating to a named driver insurance policy

Pending in Committee

This bill would amend section 60-387 of the Motor Vehicle Registration Act which currently provides that an application for registration of a motor vehicle shall be accompanied by proof of financial responsibility or evidence of insurance covering the motor vehicle.

The bill would provide that a named driver insurance policy, which restricts coverage to an individual named in the policy, (1) shall not be valid for registration of a motor vehicle and (2) shall, upon issuance, be accompanied by a notice that the policy is not valid for registration purposes and that any evidence of insurance for such policy shall list the covered individual or individuals.

The bill would also provide that a named driver exclusion insurance policy, which excludes coverage for an individual named in the policy, shall list on the evidence of insurance the excluded individual or individuals.

REAL ESTATE

LB12e (Blood) Provide a license fee exemption for servicemembers and their spouses under the Nebraska Real Estate License Act

Enacted

Effective March 7, 2019

This bill amends sections 81-885.14 and 81-885.17 of the Nebraska Real Estate License Act to provide an exemption from the broker's or salesperson's license fee in the case of an applicant who is an active duty member of the United States armed forces or the spouse of such servicemember, if such servicemember is assigned to a permanent duty station in Nebraska and the applicant is already licensed in another jurisdiction or was previously licensed in Nebraska within three years prior to becoming a resident of Nebraska after such duty assignment.

Section 81-885.14 provides that the broker's license fee shall not exceed \$250 and the salesperson's license fee shall not exceed \$200. Those fees, as established by the State Real Estate Commission, are \$100 and \$80, respectively, for original licenses, and \$200 and \$160, respectively, for two-year renewal licenses.

The bill passed 47-0-2 with the emergency clause on February 28, 2019 and was approved by the Governor on March 6, 2019.

LB384 (Walz) Change certain education requirements under the Nebraska Real Estate License Act

Enacted

Operative July 1, 2020

This bill amends section 81-885.13 of the Nebraska Real Estate License Act to amend provisions which relate to the issuance of licenses by the State Real Estate Commission.

Section 81-885.13 provides that an applicant for a broker's license shall, among other things, have first served actively for two years as a licensed salesperson or broker. The bill amends this section to provide that, in the alternative, the applicant shall provide evidence of (i) "equivalent or sufficiently relevant experience in a real estate related industry" or (ii) "hardship due to an existing brokerage being unable to retain the services of a licensee to act as it's designated broker who has the two years' experience required."

The bill provides that no person issued a broker's license may act as a designated broker for any other licensee until such person has taken additional courses of post-licensure education in the

subjects of real estate trust accounting, brokerage finance, business ethics, and risk management, except that the commission may extend, for up to six months, the post-licensure course work requirement under the hardship provision as described above.

The bill provides that each applicant for a broker's or salesperson's license shall complete six class hours in a commission-approved course related to professional practice and standards.

The bill provides that all licensees shall, within 180 days after license issuance, complete 12 hours in a commission-approved class related to required knowledge and skills for real estate practice.

The bill provides that it becomes operative on July 1, 2020.

The bill passed 31-10-8 on March 15, 2019 and was approved by the Governor on March 21, 2019.

LB454 (Clements) Change education requirements for issuance of a broker's or salesperson's license under the Nebraska Real Estate License Act

Enacted

Effective September 1, 2019

This bill amends section 81-885.13 of the Nebraska Real Estate License Act which relates to the issuance of licenses by the State Real Estate Commission.

Section 81-885.13 provides that no broker's or salesperson's license shall be issued to any person who is not a high school graduate or the holder of a certificate of high school equivalency. The bill amends this section to provide that this requirement does not apply to (i) a person who is a graduate of a home school exempt from Department of Education requirements under state law or an equivalent exempt home school from another jurisdiction, or (ii) a person who has completed a program of education acceptable to the State Real Estate Commission.

The bill passed 47-0-2 on May 23, 2019 and was approved by the Governor on May 29, 2019.

REAL PROPERTY APPRAISERS

LB77 (Williams) Change provisions of the Real Property Appraiser Act and the Nebraska Appraisal Management Company Registration Act

Enacted

Effective September 1, 2019

The purpose of this bill is to update the Nebraska Real Property Appraiser Act to reduce barriers-to-entry into the real property appraiser profession, implement the Real Property Appraiser Qualifications Criteria adopted by The Appraisal Foundation's Appraiser Qualifications Board on May 1, 2018 (2018 Criteria), and maintain compliance with Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI). Title XI requires each state to prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions. In addition, real estate appraisals are to be performed in accordance with generally accepted uniform appraisal standards, and are to be performed by an individual whose competency has been demonstrated, and whose professional conduct is subject to effective state supervision. If the State of Nebraska is found to not be compliance with Title XI by the Appraisal Subcommittee, the Appraisal Subcommittee may remove all Nebraska credentialed appraisers from the Federal Registry, resulting in no appraisers qualified to appraise real property in connection with federally related transactions. Approximately 80 percent of all mortgage loan activity would be affected. The bill also includes minor changes to address administration of the Nebraska Real Property Appraiser Act.

The following language changes are included in the bill. Page and line numbers are to the Final Reading version:

APPRAISAL MANAGEMENT COMPANIES

The bill also amends sections 76-3202, 76-3203, 76-3203.01, 76-3204, and 76-3216 of the Nebraska Appraisal Management Company Registration Act to put definitions in proper alphabetical order and harmonize internal references.

REAL PROPERTY APPRAISERS

Section 76-2222(1) is amended to remove the language "who also holds a credential as a licensed or certified real property appraiser." Fewer real property appraisers hold both a broker's license and a real property appraiser credential, which has resulted in limited interest in serving this position (page 2, lines 19-20).

Section 76-2222(4) is amended to provide that a quorum of the Board must consist of "at least two of whom are real property appraisers." This language ensures that credentialed real property appraisers represent the majority for a quorum (page 2, lines 30-31).

Section 76-2228.01 is amended to include the following changes:

"Conducted by education providers" is added in reference to qualifying education courses to better align with the language in the 2018 Criteria (p 3, line 23; p. 6, lines 2,15, and 28).

"Complete" is changed to "completed" for grammatical correctness (p. 3, line 25).

o The specific requirements for the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course are stricken since qualifying education activity requirements are found in Title 298 of the Nebraska Administrative Code (p. 3, lines 26-31; and p. 4, lines 1-5).

o "Each course shall be conducted in a classroom and not online or by correspondence" is stricken to remove the requirement that qualifying education must be completed in the classroom. This change removes a barrier-to-entry into the real property appraiser profession and aligns with the 2018 Criteria (p. 4, lines 4-5).

o "Proctored, closed-book" is added before the word "examination" or "examinations" to align with the language used in the 2018 Criteria (p. 4, line 5; p. 5, line 30; and p. 6, lines 12-13, and 25-26).

o "Or the equivalent as determined by the Appraiser Qualifications Board" is added in reference to a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board. In its February 8, 2018 letter to the Real Property Appraiser Board, the Appraiser Qualifications Board stated that it determined that if an individual obtained a bachelor's degree from an accredited college/university and took the courses in a degree program approved by the Appraiser Qualifications Board, the student could receive credit toward the requirements in the Real Property Appraiser Qualification Criteria. This change removes a barrier-to-entry into the real property appraiser profession (p. 4, lines 15-17).

o "Seven-hour" is stricken to remove the requirement that the supervisory appraiser and trainee course must be seven hours long for approval. This change removes a barrier-to-entry into the real property appraiser profession (p. 4, line 25).

o The postsecondary education requirements are removed from the licensed residential real property appraiser upgrade requirements. This change removes a barrier-to-entry into the real property appraiser profession and aligns with the 2018 Criteria (p. 5, lines 28-29).

o "Equivalent" is added in reference to a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board in the upgrade requirements. This change removes a barrier-to-entry into the real property appraiser profession (p. 6, lines 4,17, and 30).

o The scope of practice for trainee real property appraiser is modified to include "the types of real property or real estate" to reference defined terms in the Act (p. 7, lines 4-5).

Section 76-2228.02 is amended to remove "seven-hour" from the requirement that the supervisory appraiser and trainee course must be seven hours long for approval to maintain

consistency with the requirement for the trainee real property appraiser found in section 76-2228.01 (p. 7, line 27). In addition, the requirement that the supervisory appraiser and trainee course must be completed within two years of submitting an application to be a supervisory appraiser is removed. The supervisory appraiser and trainee course may be completed at any time prior to submitting an application as a supervisory appraiser, and only needs to be completed one time (p.7, line 28).

Section 76-2230 is amended to include the following changes:

- o The postsecondary education requirements for the licensed residential real property appraiser credential is reduced to holding a high school diploma, or a certificate of high school equivalency, or having education acceptable to the Real Property Appraiser Board. This change removes a barrier-to-entry into the real property appraiser profession and aligns with the 2018 Criteria (p. 9, lines 12-31; and p. 10, lines 1-2).

- o "Conducted by education providers" is added in reference to qualifying education courses to better align with the language in the 2018 Criteria (p. 10, line 5; p. 12, lines 24-25; and p 13, lines 6-7).

- o "Complete" is changed to "completed" for grammatical correctness (p. 10, line, 7).

- o The specific requirements for the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course are stricken since qualifying education activity requirements are found in Title 298 of the Nebraska Administrative Code (p. 10, lines 8-18).

- o "Each course shall be conducted in a classroom and not online or by correspondence" is stricken to remove the requirement that qualifying education must be completed in the classroom. This change removes a barrier-to-entry into the real property appraiser profession and aligns with the 2018 Criteria (p. 10, lines 17-18).

- o "Proctored, closed-book" is added before the word "examination" to align with language used in the 2018 Criteria (p. 10, line 18; p. 12, line 22; and p. 13, lines 4-5).

- o "Or the equivalent as determined by the Appraiser Qualifications Board" is added in reference to a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board. In its February 8, 2018 letter to the Real Property Appraiser Board, the Appraiser Qualifications Board stated that it determined that if an individual obtained a bachelor's degree from an accredited college/university and took the courses in a degree program approved by the Appraiser Qualifications Board, the student could receive credit toward the requirements in the Real Property Appraiser Qualification Criteria. This change removes a barrier-to-entry into the real property appraiser profession (p. 10, lines 23-24).

- o The experience requirement is reduced from two thousand hours to one thousand hours to remove a barrier-to-entry into the real property appraiser profession and align with the 2018 Criteria (p. 10, line 30).

o The experience requirement is reduced from twelve months to six months to remove a barrier-to-entry into the real property appraiser profession and align with the 2018 Criteria (p. 11, lines 4-5).

o The language "If requested, evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda" is stricken since the specific experience requirements are found in Title 298 of the Nebraska Administrative Code (p. 11, lines 5-7).

o An option to upgrade from the licensed residential to the certified residential credential by holding a credential for a minimum of five years, and not having been subject to disciplinary action by the Real Property Appraiser Board or any other jurisdiction, is added. This addition removes a barrier-to-entry into the real property appraiser profession and aligns with the 2018 Criteria (p. 12, lines 14-21).

o "Equivalent" is added in reference to a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board in the upgrade requirements. This change removes a barrier-to-entry into the real property appraiser profession (p. 12, line 27; and p. 13, line 9).

o The scope of practice for licensed real property appraiser is modified to include the defined term "real estate," and the language "if any" to specify that the scope includes property with no structure in which the highest and best use of the property would be within the scope of practice for the licensed real property appraiser (p. 13, lines 16-25).

Section 76-2231.01 is amended to include the following changes:

o The postsecondary education requirements for the certified residential real property appraiser credential are amended to add the following options in lieu of a bachelor's degree:

Hold an associate's degree from an accredited degree-awarding community college, college, or university in the study of business administration, accounting, finance, economics, or real estate; or;

Successfully complete thirty semester hours of college-level education from an accredited degree-awarding community college, college, or university that includes:

Three semester hours in each of the following: English composition; microeconomics; macroeconomics; finance; algebra, geometry, or higher mathematics; statistics; computer science; and business law or real estate law; and

Three semester hours each in two elective courses in any of the topics listed above, or in accounting, geography, agricultural economics, business management, or real estate; or

Successfully complete thirty semester hours of College Level Examination Program (CLEP) from an accredited degree-awarding community college, college, or university that includes three semester hours in each of the following subject matter areas: college algebra; college composition; college composition modular; college mathematics; principles of macroeconomics; principles of microeconomics; introductory business law; information systems; or Successfully complete any combination of semester hours of college-level education or CLEP that ensures coverage of all topics and hours identified in the college-level education requirements.

The additional postsecondary education options remove a barrier-to-entry into the real property appraiser profession and align with the 2018 Criteria (p. 14, lines 2-25).

- o The language "The American Association of College Registrars and Admissions Officers" is stricken to align with the 2018 Criteria (p. 14, lines 29-30).

- o "Conducted by education providers" is added in reference to qualifying education courses to better align with the language in the 2018 Criteria (p. 15, line 8; and p. 17, lines 17-18).

- o The specific requirements for the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course are stricken since qualifying education activity requirements are found in Title 298 of the Nebraska Administrative Code (p. 15, lines 11-21).

- o "Each course shall be conducted in a classroom and not online or by correspondence" is stricken to remove the requirement that qualifying education must be completed in the classroom. This change removes a barrier-to-entry into the real property appraiser profession and aligns with the 2018 Criteria (p. 15, lines 20-21).

- o "Proctored, closed-book" is added before the word "examination" or "examinations" to align with language used in the 2018 Criteria (p. 15, line 21; and p. 17, lines 15-16).

- o "Or the equivalent as determined by the Appraiser Qualifications Board" is added in reference to a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board. In its February 8, 2018 letter to the Real Property Appraiser Board, the Appraiser Qualifications Board stated that it determined that if an individual obtained a Bachelor's Degree from an accredited college/university and took the courses in a degree program approved by the Appraiser Qualifications Board, the student could receive credit toward the requirements in the Real Property Appraiser Qualification Criteria. This change removes a barrier-to-entry into the real property appraiser profession (p. 15, lines 26-27).

- o The experience requirement is reduced from two thousand five hundred hours to one thousand five hundred hours to remove a barrier-to-entry into the real property appraiser profession and align with the 2018 Criteria (p. 16, line 7).

o The experience requirement is reduced from twenty four months to twelve months to remove a barrier-to-entry into the real property appraiser profession and align with the 2018 Criteria (p. 16, line 7).

o The language, "If requested, evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda" is stricken since the specific experience requirements are found in Title 298 of the Nebraska Administrative Code (p. 16, lines 7-9).

o "Equivalent" is added in reference to a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board in the upgrade requirements. This change removes a barrier-to-entry into the real property appraiser profession (p. 17, line 20).

o The scope of practice for certified residential real property appraiser is modified to include the defined terms "real property" and "real estate," and the language "if any" to specify that the scope includes property with no structure in which the highest and best use of the property would be within the scope of practice for the certified residential real property appraiser (p. 13, lines 16-25).

Section 76-2231.01 is amended to include the following changes:

o The language "The American Association of College Registrars and Admissions Officers" is stricken to align with the 2018 Criteria (p. 18, lines 17-18).

o "Conducted by education providers" is added in reference to qualifying education courses to better align with the language in the 2018 Criteria (p. 18, line 27).

o The specific requirements for the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course are stricken since qualifying education activity requirements are found in Title 298 of the Nebraska Administrative Code (p. 18, lines 30-31; p. 19, lines 1-9).

o "Each course shall be conducted in a classroom and not online or by correspondence" is stricken to remove the requirement that qualifying education must be completed in the classroom. This change removes a barrier-to-entry into the real property appraiser profession and aligns with the 2018 Criteria (p. 19, lines 8-9).

o "Proctored, closed-book" is added before the word "examination" or "examinations" to align with language used in the 2018 Criteria (p. 19, line 9).

o "Or the equivalent as determined by the Appraiser Qualifications Board" is added in reference to a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board. In its February 8, 2018 letter to the Real Property Appraiser Board, the Appraiser Qualifications Board stated that it determined that if an individual obtained a bachelor's degree from an accredited college/university and took the courses in a degree program approved by the

Appraiser Qualifications Board, the student could receive credit toward the requirements in the Real Property Appraiser Qualification Criteria. This change removes a barrier-to-entry into the real property appraiser profession (p. 19, lines 14-15).

o The experience requirement is reduced from thirty months to eighteen months. This change removes a barrier-to-entry into the real property appraiser profession and aligns with the 2018 Criteria (p. 19, line 27).

o The language, "If requested, evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda" is stricken since the specific experience requirements are found in Title 298 of the Nebraska Administrative Code (p. 19, lines 27-29).

o The scope of practice for certified general real property appraiser is modified to include the defined term "real estate" (p. 20, line 22).

Section 76-2236(2) is amended to allow for an instructor certified by the Appraiser Qualifications Board to satisfy the requirement for the seven-hour USPAP Update Course by successfully completing a seven-hour instructor recertification course and exam as approved by the Appraiser Qualifications Board (page 21, lines 16-19). Section 76-2236(8) is amended to remove "seven-hour" from the supervisory appraiser and trainee course to maintain consistency with the modification found in section 76-2228.02. In addition, the language "for approval as a supervisory appraiser" is removed to ensure that any certified appraiser that completes the supervisory appraiser and trainee course will receive continuing education credit once during any two-year continuing education period in which the course was completed. (p.22, lines 27-29).

Section 76-2236(2) is amended to allow for an instructor certified by the Appraiser Qualifications Board to satisfy the requirement for the seven-hour USPAP Update Course by successfully completing a seven-hour instructor recertification course and exam as approved by the Appraiser Qualifications Board (page 21, lines 16-19). The specific requirements for the seven-hour National Uniform Standards of Professional Appraisal Practice Course are stricken since continuing education activity requirements are found in Title 298 of the Nebraska Administrative Code (p. 21, lines 19-28). "Seven-hour" is stricken to remove the requirement that the supervisory appraiser and trainee course must be seven hours long for approval as continuing education for a certified real property appraiser. This change is consistent with the change made in section 76-2228.01 (p. 22, line 27).

Section 76-2238(7) is amended to strike the language "against a credential holder" as the entire section pertains to acts and omissions that shall be considered grounds for disciplinary action or denial of an application by the Real Property Appraiser Board. The stricken language is unnecessary (p. 23; lines 27-28).

The bill passed 44-0-5 on February 28, 2019 and was approved by the Governor on March 6, 2019.

STOCK INSURANCE COMPANIES

LB602 (Lindstrom) Adopt the Domestic Stock Insurance Company Division Act

Pending in Committee

This bill would enact 11 new sections to be known as the Domestic Stock Insurance Company Division Act and would amend section 44-224.04 to provide that a domestic stock insurance company may divide into two or more resulting companies pursuant to a plan of division approved by the dividing company and approved by the Director of Insurance.

The bill would provide, section by section, as follows:

Section 1 would provide for a named act: the Domestic Stock Insurance Company Division Act.

Section 2 would enact a new section to provide for legislative purpose of the bill.

Section 3 would enact a new section to provide for definitions: (1) "assets"; (2) "capital"; (3) "department"; (4) "director"; (5) "divide" or "division"; (6) "dividing company"; (7) "domestic stock insurance company"; (8) "liability"; (9) "new company"; (10) "plan of division"; (11) "policy liability"; (12) "resulting company"; (13) "Secretary of State"; (14) "shareholder"; (15) "sign" or "signature"; (16) "surplus"; and (17) "transfer".

Section 4 would enact a new section to provide for what a plan of division shall include.

Section 5 would enact a new section to provide for approval by a domestic stock insurance company of a plan of division.

Section 6 would enact a new section to provide for approval by the Director of Insurance of a plan of division.

Section 7 would enact a new section to provide for what a certificate of division, as signed by a representative of the dividing company, shall set forth. The certificate of division shall be filed with the Secretary of State.

Section 8 would enact a new section to provide for what happens when a division becomes effective.

Section 9 would enact a new section to provide for the responsibilities of each resulting company when a division becomes effective.

Section 10 would enact a new section to provide for appraisal rights of an objecting shareholder of a dividing company that does not survive a division.

Section 11 would enact a new section to provide the Director of Insurance with rule and regulation authority.

Section 12 would amend section 44-224.04, relating to domestic stock company mergers, to provide that the Director of Insurance may permit the formation of a domestic stock insurance company for the sole purpose of merging or consolidating with an existing stock company simultaneously with the effectiveness of a division pursuant to the Domestic Stock Insurance Company Division Act.

Section 13 would provide for repeal of the amendatory section.

Section 14 would provide for the emergency clause.

TITLE INSURERS

LB221 (La Grone) Change provisions relating to limitations on powers under the Title Insurers Act

Enacted

Effective September 1, 2019

This bill amends section 44-1984 of the Title Insurers Act which had provided that a title insurer shall issue closing or settlement protection covering a proposed insured if the title insurer "issues a title insurance commitment or title insurance policy". The bill changes this to provide that a title insurer shall issue closing or settlement protection covering a proposed insured if the title insurer "or its title insurance agent engages in any escrow, settlement, closing services relating to the issuance of a title insurance commitment or title insurance policy to a proposed insured".

The bill passed 47-0-2 on May 31, 2019 and was approved by the Governor on June 4, 2019.

TRUSTS

LB536 (Pansing Brooks) Adopt the Nebraska Uniform Directed Trust Act

Enacted

Effective September 1, 2019

This bill enacts 19 new sections to be known as the Nebraska Uniform Directed Trust Act (NUDTA). The bill also amends sections 30-3805, 30-3808, 30-3855, and 30-3859 and outright repeals section of 30-3873 of Nebraska's Uniform Trust Code. The NUDTA is based on the Uniform Directed Trust Act (UDTA) as promulgated by the National Conference of Commissioners on Uniform State Laws in 2017.

In a directed trust, a person other than a trustee - trust director - has a power over some aspects of the trust's administration. Under the UDTA, a power over a trust held by a nontrustee is called a "power of direction." The holder of a power of direction is called a "trust director." A trustee that is subject to a power of direction is called a "directed trustee." The division of authority between a trust director and a directed trustee can raise difficult questions about how to divide fiduciary power and duty. The UDTA provides rules that allow a settlor to freely structure a directed trust while preserving key fiduciary safeguards for beneficiaries. By validating terms of a trust that grant a trust director a power of direction, the UDTA promotes settlor autonomy in accordance with the principle of freedom of disposition. At the same time, the act imposes a mandatory minimum of fiduciary duty on both a directed trustee and a trust director in accordance with the traditional principle that a trust is a fiduciary relationship. The UDTA provides default rules for matters that might be overlooked in the drafting of a directed trust, including information sharing among trustees and trust directors, the procedures for accepting appointment as a trust director, the distinction between a power of direction and a nonfiduciary power of appointment, and others.

Section 1 provides for a named act and section 2 provides for definitions: (1) "breach of trust;" (2) "directed trust;" (3) "directed trustee;" (4) "person;" (5) "power of direction;" (6) "settlor;" (7) "state;" (8) "terms of a trust;" (9) "trust director;" and (10) "trustee." Section 3 provides for the principal place of administration. Section 4 confirms that the common law and principles of equity remain applicable to a directed trust except to the extent modified by this act or other law. Section 5 excludes categories of powers that are not covered by this act for reasons of policy, coverage by other law, or both.

The heart of the UDTA appears in sections 6 to 11, which address the powers and duties of a trust director and a directed trustee. Sections 6 to 8 address the kinds of powers that the terms of a trust can grant to a trust director and the default and mandatory fiduciary duties of the director. Section 9 addresses the fiduciary duty of a directed trustee. Sections 10 and 11 further elaborate the duties of a trust director and directed trustee, prescribing specific rules for information sharing and monitoring among trust directors and trustees. Section 12 addresses cotrusteeship, enabling a settlor to apply the fiduciary standards of conduct for a directed trust under the act to a

cotrusteeship. Sections 13 to 15 regard legal actions against a trust director. Section 16 identifies rules applicable to a trustee under the Uniform Trust Code that are applicable to a trust director. The remaining sections involve such things as rules of construction and applicability of NUDTA beginning on January 1, 2021.

Sections of Nebraska's Uniform Trust Code are amended or outright repealed in sections 20 to 25 to coordinate its provisions with the NUDTA.

The bill passed 47-0-2 on March 7, 2019 and was approved by the Governor on March 12, 2019.

**BANKING, COMMERCE AND INSURANCE COMMITTEE
INTERIM STUDY RESOLUTIONS
2019**

LR57 (Williams) Interim study to determine whether the Real Property Appraiser Act should be updated

LR94 (Wishart) Interim study in conjunction with the Attorney General and the Dept. of Banking and Finance to examine issues surrounding regulatory sandbox programs

LR115 (Williams) Interim study to examine the Nebraska Banking Act, the Securities Act of Nebraska, and other laws within the jurisdiction of the Dept. of Banking and Finance to determine the need to update such laws

LR137 (Lindstrom) Interim study to examine the Nebraska Condominium Act

LR141 (Williams) Interim study to examine ways to enhance financial literacy programs, training, and general competencies and problem-solving skills in Nebraska, with the objective of increasing long-term financial stability for all Nebraskans

LR164 (Williams) Interim study to examine the need to update the insurance laws of Nebraska in response to technology advancement and innovation

LR194 (Hilgers) Interim study to examine the benefits of employee stock ownership programs and strategies to promote the implementation of such programs

LR229 (Lindstrom) Interim study to examine the rate of interest permissible on installment loans under the Nebraska Installment Loan Act

REPORT ON THE PRIORITIZING
OF INTERIM STUDY RESOLUTIONS
Pursuant to Rule 4, Section 3(c)

COMMITTEE: Banking, Commerce and Insurance

DATE: June 6, 2019

The following resolutions were referred to the Committee on Banking, Commerce and Insurance. The committee has prioritized the resolutions in the following order:

Resolution No.	Subject
LR94	(Wishart) Interim study in conjunction with the Attorney General and the Dept of Banking and Finance to examine issues surrounding regulatory sandboxes.
LR115	(Williams) Interim study to examine the Nebraska Banking Act, The Securities Act of Nebraska, and other laws within the jurisdiction of the Dept. of Banking and Finance to determine the need to update such laws.
LR164	(Williams) Interim study to examine the need to update the insurance laws of Nebraska in response to technology advancement an innovation.
LR141	(Williams) Interim study to examine ways to enhance financial literacy programs, training, and general competencies and problem-solving skills in Nebraska, with the objective of increasing long-term financial stability for all Nebraskans.
LR57	(Williams) Interim study to determine whether the Real Property Appraiser Act should be updated
LR194	(Hilgers) Interim study to examine the benefits of employee stock ownership programs and strategies to promote the implementation of such programs
LR137	(Lindstrom) Interim study to examine the Nebraska Condominium Act
LR229	(Lindstrom) Interim study to examine the rate of interest permissible on installment loans under the Nebraska Installment Loan Act